

MEETING OF THE PARLIAMENT

Thursday 31 May 2001

Session 1

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Scottish Parliament

Thursday 31 May 2001

[THE PRESIDING OFFICER *opened the meeting at 09:30*]

Parliamentary Bureau Motions

The Presiding Officer (Sir David Steel): The first item of business this morning is consideration of three Parliamentary Bureau motions. I ask Euan Robson to move business motion S1M-1979, in the name of Tom McCabe, which is a timetabling motion for stage 3 of the Regulation of Care (Scotland) Bill. It is a pleasure to have you with us this morning, Mr Robson.

Motion moved,

That the Parliament agrees that the time for consideration of Stage 3 of the Regulation of Care (Scotland) Bill be allocated as follows, so that debate on each part of the proceedings, if not previously brought to a conclusion, shall be brought to a conclusion on the expiry of the specified period (calculated from the time when Stage 3 begins)—

Group 1 to Group 4 – no later than 45 minutes

Group 5 to Group 10 – no later than 1 hour 45 minutes

Group 11 to Group 13 – no later than 2 hours 30 minutes

Group 14 to Group 16 – no later than 3 hours

Motion to pass the Bill – no later than 3 hours 30 minutes.—[*Euan Robson.*]

Motion agreed to.

The Presiding Officer: The second motion is S1M-1975, in the name of Tom McCabe, on the suspension of standing orders.

Motion moved,

That the Parliament agrees that Rule 5.6.1(c) of the Standing Orders be suspended for the duration of the Meeting of the Parliament on Wednesday 13 June 2001.—[*Euan Robson.*]

Motion agreed to.

The Presiding Officer: Motion S1M-1974, in the name of Tom McCabe, is on the order of consideration of amendments at stage 3 of the Housing (Scotland) Bill.

Motion moved,

That the Parliament agrees that amendments at Stage 3 of the Housing (Scotland) Bill be disposed of by reference to the following order of consideration: sections in the order in which they arise in the Bill, each schedule after the sections which introduce it, and the long title last.—[*Euan Robson.*]

Motion agreed to.

Regulation of Care (Scotland) Bill: Stage 3

09:32

The Presiding Officer (Sir David Steel): We now come to stage 3 proceedings on the Regulation of Care (Scotland) Bill. As the chamber was carrying out stage 3 consideration yesterday, I propose not to read through all the rules and rigmarole, if that is acceptable—everyone should be familiar with the procedure. We will take it as read, so we can press on with the business.

Section 1—Constitution of Scottish Commission for the Regulation of Care

The Presiding Officer: The first group of amendments consists of amendments 1 and 2, in the name of the Deputy Minister for Health and Community Care.

The Deputy Minister for Health and Community Care (Malcolm Chisholm): Janis Hughes and Kate MacLean lodged equal opportunities amendments at stage 2, which I was pleased to accept. As members will know, equal opportunities are reserved under the Scotland Act 1998, except for the encouragement of equal opportunities, in particular the observance of equal opportunities requirements. It was entirely appropriate and correct that Kate MacLean sought to ensure that the proposed Scottish commission for the regulation of care acts accordingly, but her stage 2 amendment was inserted as an addition to section 1(1), which establishes the commission, whereas it is more appropriate to make an addition to subsection (2), which deals with how the commission will act. To leave the provision where it currently sits would not give the commission the correct focus on equal opportunities—that focus should be in the exercise of its various functions. I commend amendments 1 and 2 to the Parliament.

I move amendment 1.

Amendment 1 agreed to.

Amendment 2 moved—[Malcolm Chisholm]—and agreed to.

Section 2—Care services

The Presiding Officer: Amendment 3 is grouped with amendments 4, 5, 6, 7, 8, 9, 56, 57 and 58.

Malcolm Chisholm: This group of amendments makes a number of changes to section 2, which deals with care services, and some consequential changes to section 55 on interpretation.

Perhaps the most important amendments are

those that relate to child care agencies. They respond to the considerable debate at stage 1 and stage 2 about the need for regulation of nanny agencies and other services that offer care for children. In particular, they respond to the amendment lodged by Margaret Jamieson at stage 2 in support of the regulation of nanny agencies.

Amendments 3, 6, 57 and 58 provide for child care agencies to be regulated by the commission. The definition of what constitutes such an agency has been drawn sufficiently widely to include all relevant services. Nanny agencies, sitter services and au pair agencies that supply child care staff, as defined by amendment 6, will be subject to registration and inspection by the commission. That will include agencies that provide volunteers to support families who are in need of help with child care as well as nanny agencies—those that employ nannies directly and those that introduce suitable nannies to parents, who then become the employer.

Those are important services for parents and children. Parents and guardians need assurances that the child care agency has carried out appropriate checks on the individual who will come into their home. The commission would have the power to regulate that. There will be ample opportunity for interested parties to comment when we draw up detailed proposals for implementation.

Amendment 4 removes part of section 2 (4)(b). As it stands, the definition of a school care accommodation service does not include mainstream boarding schools. By removing the wording,

“together with personal care or personal support by reason of the pupil’s vulnerability or need”,

we make it clear that the definition of school care accommodation covers mainstream boarding schools.

Amendment 5 slightly alters the definition of “nurse agency” to include agencies that introduce clients to registered nurses, midwives or health visitors, so that regulation is not limited to agencies that supply such staff directly.

Amendment 7 deals with secure accommodation. Such accommodation forms part of the spectrum of residential care for children, so it is right that it should be subject to the same regime as other forms of residential child care. However, depriving a child of his or her liberty is a serious matter and we have always said that we wish to continue with the requirement for approval by Scottish ministers. The amendment ensures that secure accommodation is defined in the list of care services as

“accommodation approved by the Scottish Ministers”,

and makes it clear that the power that enables ministers to approve such accommodation is the regulation-making power under section 24.

Amendment 8 responds to an amendment that Shona Robison lodged at stage 2, which aimed to provide collective terms for the fostering services that local authorities are required to provide or arrange and for the service that authorities provide by overseeing private fostering arrangements. There is considerable confusion, which statutory terminology may go a considerable way towards resolving.

Amendment 9 results from a commitment that I gave at stage 2, in response to an amendment lodged by Mary Scanlon, to reconsider the rather basic definition of housing support services in the bill as introduced. The amendment uses wording from section 81 of the Housing (Scotland) Bill to give a much fuller definition of housing support services in the Regulation of Care (Scotland) Bill. The wording is slightly different, to reflect the terminology in the Regulation of Care (Scotland) Bill, but maintains an important link between it and the Housing (Scotland) Bill. I believe that amendment 9 gives useful clarity as to the housing support services that are to be regulated.

Finally, in accordance with what I agreed to do at stage 2, amendment 56 clarifies the position on the definition of a child in respect of the bill’s provisions on adoption, fostering and secure accommodation. The amendment brings into play the current definitions in Scottish adoption and fostering legislation and the definition of “child” in relation to the provision and use of secure accommodation under the Children (Scotland) Act 1995.

I commend the amendments to Parliament.

I move amendment 3.

The Presiding Officer: I remind members who wish to speak that we are now dealing with all the amendments in group 2.

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

I particularly welcome amendment 6, which allows for the inclusion of child care agencies. Many people involved in child care were concerned that their omission would mean that nanny agencies would be omitted from the relevant regulations.

We appreciate the difficulties in trying to define “child care agency”. Proposed subsection (6A), which amendment 6 inserts, provides a very good definition. However, I am a little concerned about the definition of “child carer” under proposed subsection (6B). As drafted, it refers to

“the home of the child’s parents.”

I suggest that it might be a little better to recognise in the phrasing of proposed paragraph (b), the fact

that not all children live with their parents and that there are many other situations: a child may live with their grandparents or with other relatives; they may be in foster care; or they may stay with family friends. In such situations, a nanny, au pair or babysitter might still be employed through an agency to look after a child.

I have concerns that the Executive might have been a little over-zealous in its response. I draw the minister's attention to the position of peer-group support and sitter services, such as those offered by One Parent Families Scotland, or the befriending support offered by Homestart volunteers. There is concern that voluntary agencies that organise peer-group-support-type babysitting might be placed at a disadvantage as a result of proposed subsection (6B). There would need to be assurances that the costs of registration would not be so onerous as to end such services, which are often the only means for certain groups of people to arrange child care.

Mention has been made of containing costs, but I fear that that is little more than unfounded optimism: it would be quite difficult for a free sitter service whose work is done by volunteers to contain its costs. I wonder whether the minister when he sums up will be prepared to make a commitment that costs to such agencies will be kept down.

On the definition of "child", I am pleased that the Executive has, with amendment 56, gone some way towards bringing the bill into line with existing legislation. Not to have done so would have added unnecessary confusion to the bill.

The provisions proposed by amendment 6 are much more comprehensive than those contained in the bill as drafted and they tie the bill in with other legislation. Amendment 6 also highlights the problems caused by the different definitions of "child" that are found in different pieces of legislation. The United Nations Convention on the Rights of the Child states that a child is anyone under the age of 18; there is an argument for trying to achieve consistency across all legislation. I know that that is not an issue for the bill, but that general comment should be noted.

Mary Scanlon (Highlands and Islands) (Con): I welcome the definitions and the minister's response to the points raised at stage 2.

I wish to raise a point that I raised at stages 1 and 2. Although I accept the definition of support services in the bill, my point is one of clarification in relation to support services in hostels for homeless people, many of whom have drug and alcohol problems.

Given the poor standards in many of those hostels, I would not wish vulnerable people to be denied support, assistance, advice and

counselling because the service providers could not afford to upgrade and register their premises. Those premises seem to fall outwith the categories of residential accommodation and supported accommodation, although the support given would be covered by housing support services. I understand that we are talking about a specific service, but I seek clarification that hostels for homeless people will continue to exist as such, with appropriate support services provided.

I ask the minister for an example of what might be specified as "excepted accommodation", which he raised during a debate on section 21 at stage 2, in a paper entitled annexe A6. Both that paper and amendment 9 refer to

"excepted accommodation in regulations".

Could the minister advise us what such accommodation would be?

Malcolm Chisholm: I thank Irene McGugan and Mary Scanlon for their broad welcome of this group of amendments.

I respond to Irene McGugan by saying that, in general, there will be ample opportunity for interested parties to comment as we draw up detailed proposals for implementing the bill. On her specific point about a child who is cared for in the parent's home, it is the agency that will be regulated. It is clear that that will cover most children who are looked after in the parent's home, but children who are being looked after in someone else's home will also be covered.

Irene McGugan's third point was about costs. We will have at least one debate on that point, so we should perhaps leave it for later.

Mary Scanlon also raised the issue of costs. Although funding for hostels for homeless people falls outwith the scope of the bill, she is correct in her understanding that drug and alcohol services would come under housing support services, which are covered by the bill.

Finally, Mary Scanlon raised a point of detail about wording in the Housing (Scotland) Bill. I do not want to tread too far into that territory, lest members sitting behind me leap to their feet. However, I believe that Mary Scanlon was referring to specific funding arrangements for supporting people. I understand that some housing support services will be funded through other routes, such as the Scottish needs assessment programme—SNAP—and I think that the exceptions are to do with that. I would prefer Mary Scanlon to address any supplementary questions to Margaret Curran.

Amendment 3 agreed to.

Amendments 4 to 8 moved—[Malcolm Chisholm]—and agreed to.

The Presiding Officer: Amendment 72 is grouped with amendment 73.

09:45

Shona Robison (North-East Scotland) (SNP): I moved similar amendments at stage 2. I was unhappy with the minister's response to them, so I have lodged amendments 72 and 73.

It appears that the purpose of section 2(17) is to ensure that schools and related activities, such as homework clubs, are excluded from the bill's provisions, which is quite right. Section 2(17) purports to ensure that out-of-school care activities that are provided on school premises fall within the scope of the bill and so will be subject to registration and inspection. However, certain out-of-school care activities are provided in a school as part of the school's activities and the person who provides those activities is employed or commissioned by the local authority to manage the service. That happens in a number of community schools. Section 2(17) appears to suggest that such activities should not fall within the remit of the Scottish commission for the regulation of care.

Subsection (17) states that

"a person does not provide day care of children where"

the service is provided

"as part of the school's activities"

and the person is

"employed to work at the school and authorised to provide the service as part of the school's activities."

Such services—for example, those provided in community schools—may be aimed at the most vulnerable children, but they will not benefit from falling under the remit of the Scottish commission for the regulation of care or the Scottish social services council.

The national care standards should apply to such services. Amendments 72 and 73 seek to ensure that all care services that are provided on school premises for children and young people are brought within the scope of the bill. The amendments also seek to distinguish between school education activities and child care activities.

I move amendment 72.

Malcolm Chisholm: Amendments 72 and 73 would limit the exemption from regulation for services that are provided directly by a school to those that are provided as part of the school's educational activities.

I will deal first with what is included in the bill

before moving on to what is excluded. The bill will regulate after-school activities that are provided on school premises or in association with a school, but are not managed by the school. Such activities include, for example, after-school clubs that are run by a management committee of parents.

In response to the specific point made by Shona Robison, the bill also covers services provided by a local authority that take place in a school but are not part of the school's activities as such. Local authority child care that is provided on school premises, but not as part of the school's activities—that is, not managed by the school—would be covered.

Our reason for excluding from regulation all activities that are run by the school was the difficulty of distinguishing between educational activities and child care in that context. We remain convinced that it is not practical to distinguish between a school's child care activities and its learning activities. For example, in activities that are run by a school, such as homework clubs, pupils sometimes do homework and sometimes play. We discussed the issue fully at stage 2 and the committee was not convinced of the need for Shona Robison's amendments.

I invite Shona Robison to withdraw amendment 72 and not to move amendment 73.

Shona Robison: I seek clarification from the minister that common sense would prevail if the person who runs an after-school care service in a community school is employed by the school. Will the minister give me an assurance that, in such a case—I know that there are only a small number of such cases, but they exist—common sense would prevail, with the service being treated as falling under the bill?

Malcolm Chisholm: The question is really whether the school manages the activity. As members know, management committees of parents run most after-school clubs and it is clear that the bill covers those clubs. If the school manages the activity, it becomes a different matter. That is the key criterion.

Amendment 72, by agreement, withdrawn.

Amendment 73 not moved.

Amendment 9 moved—[Malcolm Chisholm]—and agreed to.

Section 3—Power to amend the definition of "care service"

The Presiding Officer: Amendment 10 is grouped with amendments 15, 17, 32, 33, 47, 48, 49, 50, 51, 53, 61 and 62.

Malcolm Chisholm: From the outset, we wanted the whole process of introducing the bill

and the care standards to be based on consultation. For example, we issued seven consultation and three policy position papers. We established a reference group, which consists of all the stakeholders. The care standards were produced by 15 or so working groups involving a range of other interests, including, crucially, users and carers. I held six consultation meetings with a wide range of stakeholder groups in March and April. I could go on.

We have not gone through the motions of consultation, but have genuinely been prepared to take on board the views we received and to adapt our proposals where we could to meet any concerns that were expressed. However, during our stage 2 discussions there were some concerns that the consultation provisions in the bill did not go far enough.

Various suggestions were made about bodies that ministers, the commission and the council should be explicitly required to consult—for example local authorities, health boards, users and carers, providers, the Mental Welfare Commission and the voluntary sector. Of course we intend that ministers, the commission and the council should consult all those bodies, but I agreed to reconsider the consultation provisions to determine whether they were as consistent and appropriate as they could be. This group of amendments is the result of that consideration.

First, I propose to add more consultation provisions to the bill. We had intended to consult in any event, but I understand the argument that a specific statutory provision is a safeguard. Amendment 10 requires ministers to consult before amending the definition of care services. Amendments 32 and 50 require ministers to consult before conferring additional functions on the commission or council or making regulations that relate to the registration process. Amendments 61 and 62 require ministers to consult before making regulations about appointments to the two bodies and about their procedures. Amendment 51 requires the council to consult before making rules about registration. Such measures will strengthen the consultation arrangements in the bill and I hope that they will be welcomed.

Secondly, I have reconsidered the way in which the consultation provisions are framed. I cannot add a specific requirement to consult voluntary organisations, for example—which was strongly pressed by Janis Hughes—or providers, users and carers. Such terms are not sufficiently specific to let ministers, the commission or the council know what is required of them and whether they have fulfilled their statutory duty. Which voluntary organisations would ministers have to consult? Would all potential users and carers or only a

representative sample have to receive a consultation paper?

I intend, however, to set out in guidelines how the commission and the council should consult. Amendment 53 therefore provides that ministers have a duty to issue guidelines to the commission and the council as to how they are to fulfil their consultation functions under the act. The voluntary sector, for example, would certainly be mentioned in guidelines.

As well as extending the number of references to consultation and ensuring that guidelines will be issued, the amendments also require consultation with “such persons” rather than “any person”. That makes clear that there must always be consultation. Deciding at the outset that there are no appropriate consultees will not be an option. We also propose to add “groups of persons” to the provisions to make clear that representative bodies as well as individuals and corporate bodies are to be included.

The flexibility needed for the process to work well will be allowed by having ministers, the commission and the council consult the persons and groups of persons that they think appropriate. However, that does not give them *carte blanche*: their decisions must be defensible in the courts and will be open to judicial review.

I commend the amendments and move amendment 10.

Janis Hughes (Glasgow Rutherglen) (Lab):

As the minister mentioned, at stage 2 I lodged an amendment that required the voluntary sector to be named specifically in the bill and to be included in consultation. We had a good discussion about the issue and I understand the minister's comments about why it is preferable not to name the voluntary sector in the bill.

However, if the Parliament is serious about considering the voluntary sector as the third sector with the public and private sectors, we must give it a commitment that it will be included in discussions about anything to do with the provision of care and the facilities that are provided through the bill. I am glad of the assurances that I have been given. I would be pleased if the minister can give any further assurances in winding up.

Malcolm Chisholm: I thank Janis Hughes for welcoming the proposals. I repeat what I said about guidelines for the commission and the council containing a reference to consulting the voluntary sector and I affirm that ministers give a commitment to consulting the voluntary sector where the responsibility rests with us. I hope that that reassures Janis Hughes.

Amendment 10 agreed to.

The Presiding Officer: Amendment 11 is grouped with amendment 60.

Malcolm Chisholm: Amendments 11 and 60 ensure that ministers can make orders that deal with the various transitional issues that are relevant to the bill. We will need to ensure the smooth changeover from the current registration and inspection systems that are operated by local authorities and health boards. Our transitional issues group is working on these complex but routine issues and that will help us to identify the key areas that need to be addressed. Ministers will be required to consult appropriately before making an order under section 52.

I move amendment 11.

Amendment 11 agreed to.

Section 4—Information and advice

The Presiding Officer: Amendment 12 is grouped with amendments 13 and 14.

Malcolm Chisholm: Amendment 12 builds on a commitment that I gave at stage 2 in response to an amendment lodged by Richard Simpson to ensure that the information the commission gives to the public is available in a variety of formats.

Amendment 12 ensures that a person requesting information from the commission is entitled to receive it in any format that that person may reasonably request. I envisage that that will include audiotape and Braille versions of care information as well as information in minority ethnic languages. The amendment reflects our commitment to ensuring that the commission meets the needs of service users and their families.

Amendment 13 relates to a commitment that I gave at stage 2 to reflect on a suggestion made by Shona Robison. The suggestion was to include persons or groups of persons who represent users and their carers in the bodies that may ask the commission for advice about any matter relevant to its functions. Given our commitment to users and their carers, the amendment is important and useful.

Amendment 14 gives ministers the power to prescribe by order other persons and groups who may ask the commission for advice. That gives necessary flexibility to enable the commission's duty to provide advice to be extended to cover other bodies. An example of such a body would be the Mental Welfare Commission.

I move amendment 12.

Dr Richard Simpson (Ochil) (Lab): I will make a declaration as this the first time I have spoken. I am a director of Nursing Home Management Ltd, which operates nursing homes in England, a

member of the British Agencies for Adoption and Fostering and a member of the Scottish Association for Mental Health.

I welcome amendment 12. It is vital that we put the persons to whom the services are offered at the centre of our activities. The amendment allows individuals to request information in the format that they prefer. That is appropriate.

Amendment 12 agreed to.

Amendments 13 and 14 moved—[Malcolm Chisholm]—and agreed to.

Section 5—National care standards

Amendment 15 moved—[Malcolm Chisholm]—and agreed to.

The Presiding Officer: Amendment 16 is grouped with amendments 20, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 78, 45 and 46.

Malcolm Chisholm: The bill empowers the commission to refuse to register a care service or to cancel an existing registration. We hope that that will happen only rarely, but the commission must have effective enforcement powers if vulnerable users are to be protected properly.

In the vast majority of cases, such provisions should apply to local authorities in exactly the same way as they are to apply to services provided by the voluntary and private sectors. One of the main intentions behind the bill is to level the playing field. The one general exception is for local authority adoption and fostering services. Local authorities have a statutory duty to provide such services and would be in breach of that duty if the commission either refused or cancelled registration. Part 1A therefore covers those services. Rather than a local authority being deregistered by the commission, it will be possible for ministers to take default action against a local authority if they are satisfied that it has no reasonable excuse for failing to comply with an improvement notice or for not complying with relevant service requirements.

Local authorities do not have a statutory duty to provide other care services, but there may be some circumstances in which they can meet a statutory duty only by providing a particular care service. For example, a local authority may have assessed the care needs of a rural area and decided that they can be met only if a home care service is provided there. There may be no private or voluntary sector providers who are willing to offer such a service in the area. A local authority service would then be the only means whereby the local authority could fulfil its general duty in those particular circumstances.

10:00

This group of amendments therefore extends the provisions that apply to local authority adoption and fostering services to cover care services that a local authority determines it must provide to fulfil a statutory duty. The decision on whether those provisions should apply should not, of course, be left entirely to local authorities themselves. We want to be sure that this mechanism is used only in the very small number of cases where failure to fulfil a statutory duty is genuinely involved. Amendment 36 therefore provides for any dispute between a local authority and the commission on this issue to go to Scottish ministers for a decision. If ministers do not agree with the local authority's view that the registration is essential, the normal provisions will apply.

Amendments 40, 43 and 78 are technical amendments to clarify the existing provisions relating to local authority adoption and fostering services.

I do not envisage the provisions introduced by this group of amendments being used very frequently. In the vast majority of cases, there is no reason why a local authority service should be treated any differently from the service of a voluntary or private sector provider, but the amendments will introduce useful safeguards to the new system to ensure that local authorities' statutory position is protected where necessary, and to ensure that the safety net that is provided for vulnerable people by the statutory duties placed on local authorities continues to operate as it should. I commend these amendments to the chamber.

I move amendment 16.

Michael Russell (South of Scotland) (SNP): We will support these amendments, but I would like the minister to confirm that although they are necessary to achieve the overall objectives of the bill, they will not impinge on the review of adoption and fostering. The chamber has accepted that that review is necessary, as has the Executive. Many members are looking forward to the review because new attention to the legislative framework for adoption and fostering is overdue.

Donald Gorrie (Central Scotland) (LD): Listening to the minister, I was not quite clear about a couple of things. There seems to be an implication that adoption and fostering are not being targeted as before. My point is similar to Michael Russell's and I would like the minister to be clear on it.

The care services that are listed on page 2 of the bill go down as far as paragraph (j)—however many that is. There are a lot of services. I wonder whether the bill has now been drawn too widely. From what the minister said, it was previously too

precise about fostering and adoption. The Executive now wants to cover other services. Does the Executive mean that all the care services listed in the bill should be covered?

Malcolm Chisholm: I will deal with Mike Russell's point first. There is no suggestion that what is provided in the bill for adoption and fostering in any way impinges on the review of adoption and fostering. I am not looking for too much sympathy, but many of the areas that are covered in the bill are not within my direct ministerial responsibility.

The review of adoption and fostering that is being carried out by Jack McConnell and Nicol Stephen has been broadly welcomed. The review is not impinged upon by the equally welcome proposals in the bill to ensure that adoption and fostering services continue in all circumstances. The precise point of part 1A is that statutory functions will continue in all circumstances. The general provisions that allow a care service to be shut down if it does not meet standards do not mean that there will be no adoption and fostering services.

I hope that my reply to Mike Russell reassures Donald Gorrie as well. I am not sure what he was implying when he talked of adoption and fostering services being "targeted"; I would argue that those services are being protected. They will be further enhanced as a result of the review.

I am also not quite sure what Donald Gorrie had in mind in his second point. If he had mentioned any specific services that he does not think should be in the bill, I might have been able to respond more specifically. Clearly, I do not think that the list of care services is too widely drawn, or I would not have put it in the bill.

Amendment 16 agreed to.

Section 6—Complaints about care services

Amendment 17 moved—[Malcolm Chisholm]—and agreed to.

Section 7—Applications for registration under Part 1

The Presiding Officer: Amendment 75 is grouped with amendments 18 and 19.

Mary Scanlon: The minister has responded to my concerns at both stage 1 and stage 2. Amendment 75 is about the regulation of different branches of care services. The minister has gone some way towards addressing my concerns by stating that to be separately registered a care service must be separately managed, with one person in day-to-day charge of the service and directly responsible for its quality. He has also stated that in most cases it will be clear what

constitutes an individual care service—for example every child minder, every care home and every independent clinic.

The minister has further stated that when two homes are managed as one unit and staff move between them interchangeably, the commission may well agree that one registration would be appropriate. He has also said that if a local authority home care service is run as one service—with the management and decision-making powers at the centre and effective arrangements in place to ensure that management decisions get through consistently to those providing the service on the ground—again, one registration may be appropriate. For example, there could be one registration for the whole of Highland Council, covering a huge geographic area for home care services. The critical point is not who provides the service, but who manages it.

Another example would be of a care home offering a day care service. The minister has stated that the commission could charge a total fee made up of the separate registration fees, but that it would have the power to waive, or reduce, the fee under section 20(3)(b). That section needs to be clearer. I can envisage lots of care providers challenging the commission to get a reduction in the fee. However, the minister has gone some way towards addressing the situation when there is more than one care provider.

To be consistent, I will stick to the example of the Leonard Cheshire homes and the various other providers that I have mentioned at stage 1 and stage 2. Many providers provide residential accommodation, supported accommodation, respite care, day care and home care. That extensive choice of service, which is designed to suit various individual needs, may be managed by one person and the staff may be interchangeable. For example, some staff will do some hours of home care but the rest of their working week will be in day care or residential care. The same staff could see to the care needs of people in respite care beds. Given that that integrated service could have one manager and interchangeable staff, amendment 75 requests that where such a service

“is operated and managed in an integrated manner ... a single application”

can be accepted for multiple registration and inspection.

People in the voluntary sector keep complaining about bureaucracy. Amendment 75 would reduce bureaucracy. It would reduce the amount of time that is spent filling in forms and it would reduce duplication. In the situations that I have been talking about, instead of 10 inspections a year, only two inspections a year would be required.

A failure to endorse amendment 75 could lead to

a reduction of choice in the care services offered by the voluntary sector and other providers. Acceptance of the amendment could encourage a more diverse range of services, such as day care and home care. Eventually, individuals could increase their use of the services that were provided and would be able to move to different grades and levels of service while staying with the same provider

I move amendment 75.

Malcolm Chisholm: I thank Mary Scanlon for helpfully citing various explanations that I have given at the committee stages so that I do not need to repeat them. All I would add is that guidance on these matters will be issued to the commission.

Amendment 75 would allow the commission to accept a single application

“where more than one care service is operated and managed in an integrated manner”.

There is a danger in that proposal. The care standards and regulations will be different for different care services, and it must be clear to the commission from the outset which care services are to be provided. We therefore consider it important that, as section 7(3) makes clear, separate applications are made for each care service, even if they are being provided and managed together.

Once the commission has the applications, it can treat them as one process and decide on the appropriate package of care standards to register and subsequently inspect the service against. No unnecessary bureaucracy should be involved, therefore. Our inspection methods working group has been asked to examine this issue with a view to deciding what guidance needs to be given to the commission and providers. I should also point out that the commission will be able to charge a fee for registration that is less than the combined fees for the separate care services, because of its powers under section 20 to waive or charge nominal fees. We will discuss this issue in more detail in the group of amendments on registration fees. With that assurance, I hope that Mary Scanlon will withdraw amendment 75.

Amendment 18 is an amendment to section 7 to ensure that adoption and fostering services can be provided only by voluntary organisations. At present, the bill merely says that the person applying to register as the provider of such a service must be a voluntary organisation. That person might cease to be a voluntary organisation after registration.

Amendment 19 is consequential to the previous group of amendments on local authority statutory duties.

Mary Scanlon: I am reassured by much of what the minister has said. Like many things to do with this bill, the provision is not in the bill; the devil is in the detail in memorandums and regulations. Will MSPs have the opportunity—perhaps in the Health and Community Care Committee—to examine the type of registration to which the minister referred once the Executive has produced more details?

Malcolm Chisholm: I can give Mary Scanlon assurance on that: she has a point about what is in the bill, which is why we have been so careful to ensure that all the regulations are fully and comprehensively consulted on.

It would be entirely appropriate for the guidance that I referred to to be discussed in the Health and Community Care Committee. I emphasise the point that the inspection methods working group is considering the issue. Mary Scanlon will remember that at stage 2 I undertook to refer the issue to the group. The members of the group are the experts in this area and I look forward to the detailed guidance that they will produce soon.

Mary Scanlon: With those assurances, I seek to withdraw amendment 75.

Amendment 75, by agreement, withdrawn.

Amendments 18 and 19 moved—[Malcolm Chisholm]—and agreed to.

Section 9—Improvement notices

Amendment 20 moved—[Malcolm Chisholm]—and agreed to.

10:15

The Presiding Officer: Amendment 21 is grouped with amendments 22 and 23.

Malcolm Chisholm: Amendment 22 relates to our discussion on local authority statutory duties. There may be cases where a service that is registered in the normal way becomes essential to the fulfilment of a statutory duty, perhaps because all other providers withdraw from the local market. Amendment 22 provides for a local authority to argue that that is the case if the commission issues an improvement notice foreshadowing cancellation of registration. Again, any dispute over whether the service is essential will go to ministers. There may also be cases where the cancellation of the registration of a private or voluntary sector service commissioned by a local authority would put that local authority in breach of a statutory duty. A voluntary sector care home may be the only one available locally, for example, and the local authority may have decided that a care home is necessary to meet the needs of the area.

Amendment 21 provides for a local authority to be informed when improvement notices are issued to a care service within its area, so that it has time either to work with the provider to avoid cancellation or to make alternative arrangements to meet the care needs of the area.

Amendment 23 removes a reference to section 9(1), which deals with improvement notices, from section 16A. That is a technical change to ensure consistency in the bill now that it contains part 1A.

I move amendment 21.

Amendment 21 agreed to.

After section 9

Amendment 22 moved—[Malcolm Chisholm]—and agreed to.

Section 16A—Conditions as to numbers

Amendment 23 moved—[Malcolm Chisholm]—and agreed to.

Section 20—Registration fees

The Presiding Officer: Amendment 24 is grouped with amendments 76 and 77.

Malcolm Chisholm: We had considerable discussions during stage 2 on fees for the regulation of services and how they should be set. Section 20 provides for ministers to set maximum fees and section 42 provides for ministers to pay grant to the commission. The bill does not say anything about the relationship between the two or about what proportion should be fees and what should be grant.

When we consider what the fee level should be, we will take into account all relevant factors, including the effects that registration fees have had on the care market in the previous years and the likely effect of further increases. We will take a range of factors into account in deciding what the balance between income from fees and central Government grant should be. Self-financing remains the general policy and that will be the case at the outset for the registration of those services that are to be regulated for the first time, including private doctors and dentists and home care agencies. However, we will ensure that that policy does not cut across objectives in other areas, including the need for a flourishing care home sector. The rate at which self-financing is achieved will therefore vary for different care services.

In coming to a view on the level of fees for 2004-05 onward, ministers will be interested in the views of service providers. We have always consulted providers and others on proposed changes in registration fees and, as I agreed at stage 2, I am

happy to include a specific provision in the bill to that effect. Amendment 24 therefore provides that ministers must consult providers on the potential effect of proposed fees on care services.

Amendment 76, in Shona Robison's name, would require the commission to have regard to

"the anticipated impact of fees on service provision and service providers"

and to any representation from local authorities, health boards or other interested parties. That would not be appropriate. It is for ministers to consider the impact of fees on the sector. Amendment 24 will provide the mechanism to allow them to do that effectively. For the commission to reconsider the issue in setting its fees would be pointless and would require it to carry out its own consultation.

Amendment 77, in Mary Scanlon's name, would empower the commission to charge a single registration fee where more than one care service is provided in an integrated way. There is no need for the amendment. Section 20(3)(b) already empowers the commission to charge a nominal fee or to waive the fee altogether. We will be providing the commission with guidance on the circumstances in which it may wish to waive fees, and the example in amendment 77 would be one such instance. We also have the power to prescribe by order circumstances in which fees are not to be payable and we will do so if it proves necessary to clarify the issue. There are also technical difficulties with the amendment. The words "operated" and "charge" are not used in the bill—although I accept that I have used them in explaining these matters—and there would have to be appropriate clarification of what is meant by "integrated manner".

I move amendment 24, and ask that amendments 76 and 77 be not moved.

Shona Robison: As the minister said, fees have been one of the most contentious issues since the start of the bill process. The Health and Community Care Committee heard one witness after another say that the Executive's stated objective that the Scottish commission for the regulation of care should be self-financing would mean a huge increase in fees and therefore a huge burden on care providers, particularly those in the voluntary sector. At present, fees cover only 17 per cent of the cost of registration, yet the minister wishes to adopt a system that will be 100 per cent funded by fees. The system will not provide one extra pound for care services. Instead, the minister will set up a little-needed paper-chase around a fees system.

The minister told us that funding to local authorities will be increased to cover the cost of the increased charges that providers will levy to

cover their increased registration fees. All members of the Health and Community Care Committee were rather sceptical about that statement. I am sure that we will discuss the issue at some length when we debate amendment 34, which seeks to remove the safeguards that section 24A provides.

The fundamental point is that the same pot of public money that goes to local authorities will be used to fund the commission, so why not fund the commission directly and prevent the recycling of public money, which loses value each time that it is recycled? We have yet to hear an adequate explanation of the policy.

I recognise that amendment 24 will allow ministers to consider the potential effect of fees, but that does not go far enough. Amendment 24 is not strong enough to reflect the overwhelming views of the witnesses who gave evidence to the Health and Community Care Committee—in a democracy, after all, we are supposed to listen to such people.

Amendment 76 would strengthen section 20 by stating that, when the commission sets fees, it should have regard to the

"anticipated impact of fees on ... service providers".

Given that the commission will have day-to-day contact with service providers, it will be in a better position to know the impact of fees than ministers might be.

Mary Scanlon: The basic principle of amendment 77 is similar to that of amendment 75. Amendment 75 was about registration; we are now discussing fees. During stage 2, the minister's reply to the question that that principle raises was that, when a care home provides another level of care, a reduced fee for one service would be appropriate. This morning, we received further reassurances on that.

I welcome the reduction or the waiving of fees when a service can reasonably expect to attract only an unusually small number of clients because of its geographical location. As an MSP for the Highlands and Islands, I welcome that, particularly for remote and rural areas such as Sutherland.

The minister says that the commission's decisions should not take account of the financial circumstances of any provider. I understand that we will debate that matter more fully when we debate the amendment to delete section 24A. However, surely we must take account of the fact that quality cannot be divorced from funding, costs and council referrals. With little or no increase in funding and reduced referrals, care providers cannot achieve or maintain the required standards. If a service is given only a small number of referrals because of problems of

delayed discharge, for example, will a reduced fee be appropriate? Unless the integrated provision of care is recognised, councils could put voluntary and private care providers out of business through their powers of funding and referral.

Some people fear that care services will be reduced to a standardised form to suit the commission rather than the care needs of individuals. I will be consistent and refer again to the Leonard Cheshire homes' provision of care. If that organisation had to pay five fees, that would quickly lead to a reduction in, and a more standard form of, care. For example, after 2004, registration and inspection of a 40-bed care home will cost £7,000. From 2002, registration and inspection of a day care centre will cost between £1,400 and £1,800. For a home care service, the amount will be between £1,200 and £1,800. That is not to mention respite care and supported accommodation.

Amendment 77 looks towards a more appropriate single fee that is based on the multiple services that are provided. The amendment would address the provision of more than two services.

Margaret Jamieson (Kilmarnock and Loudoun) (Lab): I ask the minister to clarify a point about the collection of registration fees. It has been drawn to my attention that the registration board in the Ayrshire and Arran Health Board area has recently experienced difficulty with care home owners who have not paid last year's registration fees and have had this year's inspection conducted. Does the bill deal with such circumstances? I am concerned that individuals may delay payment of fees and thereby cause the commission difficulty.

Mrs Margaret Smith (Edinburgh West) (LD): The issue of fees exercised many members in the Health and Community Care Committee and several witnesses who gave oral or written evidence. Many people were concerned by aspects of the proposals that are not specified in the bill but are in its accompanying memorandums, regulations and guidance. The financial memorandum to the bill suggests that the system will be self-financing through fees by 2004, which caused a great deal of concern. I ask the minister to clarify further his comment this morning that the rate of self-financing will vary among care services.

I welcome the fact that, by lodging amendment 24, the Executive has shown that it has listened to that general concern about fees. It is appropriate that ministers must consult. Ministers must take an overview of the sector and keep a watching brief—a monitoring brief—on the impact of the bill and on other aspects of the long-term care sector.

Many members are concerned about the

position of local councils, which Shona Robison mentioned. We heard what the Executive said about extra funding through grant-aided expenditure to pay for fees, but the Health and Community Care Committee is aware that the GAE on community care is not necessarily spent on that by all councils, so we continue to have concerns about the issue. I would like the minister to deal with that point.

I have some sympathy for the points that Mary Scanlon raised this morning and repeated in relation to amendment 77. However, we must remember that section 20(3) gives the commission discretion to remit fees. Malcolm Chisholm discussed with the Health and Community Care Committee some circumstances in which the commission might exercise that discretion. The minister said that he would issue guidance and that the commission would attempt to be consistent. He suggested that fees would be waived when multiple care services were operated and managed in an integrated way, when a service was due to close within a short time after fees were due or when a service could reasonably expect to attract only an unusually small number of clients because of its geographical location. Obviously, that would interest members who represent more rural areas.

The bill has some scope to meet the concerns that Mary Scanlon outlines with amendment 77. I support amendment 24 and ask for further clarification on the points that I raised.

Dr Simpson: I share some of Shona Robison's concerns. In trying to make clear the costs of the commission, we may introduce a bureaucratic system in which the public pound will circulate through several hands and be devalued. I continue to feel instinctively that we have not got the system correct. However, I hope that amendment 24 and the terms of the bill will allow the minister to reconsider the arrangement and decide that fees should all be paid centrally. We should get rid of the bureaucracy. In a post-Sutherland era, where personal care is to be free, the public pound will pay for almost the whole of the care sector—apart from personal living costs. The situation will change radically and the system will need to be re-examined.

I wish to raise a point about registration and deregistration of beds in interim periods. At a meeting of the Health and Community Care Committee, I indicated that, when care homes in the Tayside Health Board area have a reduced occupancy that is perceived as continuing over a period of time, they are not allowed to adjust their staffing levels to be appropriate to the number of beds that are occupied at the time. The care homes in that area have to continue to staff themselves as if they were fully occupied. In some

circumstances, that can cause the homes considerable funding difficulties.

A process that registers and deregisters care homes with any frequency means that the occupancy figures, which we will return to when we look at section 24A, are invalid. Comparisons across the sector and the sort of level playing field that the minister has referred to as being essential and central to the bill will also not apply. I hope that the minister will consider those processes in his discussions with the commission so as to ensure that they are in the least bureaucratic form.

10:30

Nicola Sturgeon (Glasgow) (SNP): It is fair to say that registration fees are the most contentious aspect of a bill whose main provisions are otherwise to be welcomed. Every witness who appeared before the Health and Community Care Committee and was asked about fees expressed deep concerns about that aspect of the bill. Their concerns were twofold but, as both points have been covered in the debate, I will repeat them only briefly.

First, witnesses expressed deep concern about the drastic increase in the level of fees. We are to go from a system where only 17 per cent of the costs of the bureaucracy are levied from providers to one where the figure is 100 per cent. Witnesses expressed a real fear that, as those increased fees will come on top of financial pressures that the voluntary and independent sectors are already experiencing, the viability of many care homes and many beds in those homes will be threatened.

Those who gave evidence expressed my second point even more strongly. As Shona Robison and other members said, a system in which money circulates from one part of the system to another is absurd. Malcolm Chisholm has said repeatedly that funding to local authorities will be increased so that they can meet the increased fees that will be charged. The assumption is that providers will pass their fee increases on to local authorities. Money will just circulate around the system without a pound of the additional money going to improve the quantity or the quality of care. As a number of witnesses said, such a system will be absurd in the extreme. I share Richard Simpson's instinctive feeling that that system is not right. I hope that Malcolm Chisholm will show himself willing to listen to the overwhelming opinion that was expressed in the committee. I hope that he will support amendment 76.

Mr John McAllion (Dundee East) (Lab): I, too, am one of the members of the Health and Community Care Committee who were exercised about the Executive's proposals on registration

fees. I cannot recall anyone who gave evidence to the committee—apart from the minister and his civil servants—who was in favour of the idea that the new system of regulation should be self-financing. No one believed that the cost of the Scottish commission for the regulation of care and the Scottish social services council should be met by charging fees.

The Association of Directors of Social Work described the proposal as unrealistic and said that it was not a good use of the community care pound. Their employers—the Convention of Scottish Local Authorities—were equally sceptical about whether the new system could be made to work. If anything, the transitional arrangements that are to be put in place for 2002-03 and 2003-04 were much more popular. That is because the transitional arrangements are a mixture of grants and fees rather than being exclusively one or the other.

I was pleased to hear the minister say that, although the bill allows ministers to set maximum fees, it also allows them to pay grants. There is nothing in the bill about the ministers' final decision about the mix between grants and fees. Indeed, I was encouraged to hear the minister talk about a balance between fees and grants. He said that, although self-financing remains a general policy, it will not be allowed to undermine other aspects of the system. The sector must be sustainable so that it can survive into the future, when the new conditions to which Richard Simpson referred will apply.

Like the convener of the Health and Community Care Committee, Margaret Smith, I was interested to hear the minister say that the rate at which self-financing is achieved will vary across the sector. That sounds as though he is making room for a compromise. Although I am not usually one to argue for compromises, I welcome the fact that the minister has signalled a compromise. Indeed, I hope that the minister goes beyond signalling and talks to COSLA and other providers to create an agreed, consensual system. I am in favour of amendment 24.

I will not support amendment 76 because it contains a fundamental flaw. As the minister said, the financing of the system, whatever system is implemented in the long term, is a matter for elected politicians. Ministers must take those decisions, as they are accountable to the Scottish Parliament. I will not support an amendment that would allow a quango to overrule a decision that had been made, and a system that had been put in place, by the elected ministers of an elected Parliament.

Malcolm Chisholm: The debate has been interesting and has included many useful contributions. I will start with the point that John

McAllion made that the financing of the system is a matter for elected politicians. That is the key issue in the debate on section 20 and on section 24A. Perhaps some members were not giving their full attention to the debate but, if they remember one statement, it should be the key message that it is up to elected politicians to decide on such financing matters.

Shona Robison's amendment 76 would not strengthen amendment 24, as it is quite irrelevant to it. As I said, amendment 76 is pointless. The commission should not—indeed, it could not—get involved in such decisions, as running that operation would require financing. Amendment 76 is a total irrelevance and members should not support it.

I am glad that people have picked up the point that I made about a balance between fees and grant, as that has always been implicit in our proposals. We have already exempted early education and child care from the self-funding principle. As I indicated, amendment 24 makes it clear that we are determined to take account of the effect of fees on issues such as the care home market.

The reality is that the commission has somehow to be funded. We take the view that it is best for providers to have some stake in the system. People who suggest that the commission should be funded totally from the centre perhaps forget that many private operators, such as private health care services or individuals who self-fund, will pay fees. I am not sure whether members are suggesting that those fees should also be fully paid for by public funds.

Nicola Sturgeon and Richard Simpson made great play on the idea of money circulating in the system, but what is local government finance but money circulating in the system? If people want to argue that the Parliament and the Executive should fund everything directly, perhaps they will do so, but it is not sensible to argue in terms of money circulating in the system.

Clearly, money is given to local authorities through GAE. I accept Margaret Smith's point that there is an issue about whether the money that is allocated for community care is spent appropriately. I have no doubt that we will revisit that issue later this morning—and on many other occasions—because there are concerns about it. However, I have made it clear on several occasions that, when GAE is set in future, community care will be taken into account.

Mary Scanlon made several points, one of which concerned the situation in which a service can reasonably be expected to attract only a small number of clients. As Margaret Smith reminded us, that situation would be covered by the

exemption—indeed, I indicated that in my discussions with the committee. However, Mary Scanlon's proposition that there should be an assessment of whether an individual care service can afford to pay is not practical. The commission would be completely distracted if it had to examine the financial position of every care service and it would not be able to get on with its proper job.

Margaret Jamieson referred to Ayrshire and Arran Health Board and difficulties in collecting fees for registration. The bill makes it explicit that registration can be cancelled if the service is carried on

“other than in accordance with the relevant requirements”.

That includes, of course, the payment of fees.

I have dealt with the point that Margaret Smith made about GAE for community care, but she also referred to what I said about the rate of self-financing varying from one service to another. Again, I will use the example of private health care. That system will be self-financing from the outset in 2003, whereas there is no proposal that residential care should be self-funding within such a time scale.

Richard Simpson referred to the registration and deregistration of beds. That was a timely reminder of how fragmented the current system is. I know that one area may adopt that procedure while others may not. We are bringing that fragmentation to an end through the system of registration, which will be the first-ever national system. I can assure Richard Simpson that the staffing levels that will be agreed by the commission will be flexible and that the arrangements will be able to take into account changes in occupancy.

The debate has been important. Clearly, there is no finality about what is said today. I merely repeat that the bill leaves the balance between fees and grant entirely open. That balance can be revisited on any occasion that members wish it to be.

Amendment 24 agreed to

Amendment 76 moved —[Shona Robison].

The Presiding Officer: The question is, that amendment 76 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
Aitken, Bill (Glasgow) (Con)
Campbell, Colin (West of Scotland) (SNP)
Canavan, Dennis (Falkirk West)
Davidson, Mr David (North-East Scotland) (Con)
Douglas-Hamilton, Lord James (Lothians) (Con)
Elder, Dorothy-Grace (Glasgow) (SNP)
Ewing, Mrs Margaret (Moray) (SNP)

Fabiani, Linda (Central Scotland) (SNP)
 Fergusson, Alex (South of Scotland) (Con)
 Gibson, Mr Kenneth (Glasgow) (SNP)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Grahame, Christine (South of Scotland) (SNP)
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)
 Harding, Mr Keith (Mid Scotland and Fife) (Con)
 Hyslop, Fiona (Lothians) (SNP)
 Johnstone, Alex (North-East Scotland) (Con)
 Lochhead, Richard (North-East Scotland) (SNP)
 MacDonald, Ms Margo (Lothians) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 McGugan, Irene (North-East Scotland) (SNP)
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)
 McLeod, Fiona (West of Scotland) (SNP)
 Mundell, David (South of Scotland) (Con)
 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)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Sturgeon, Nicola (Glasgow) (SNP)
 Tosh, Mr Murray (South of Scotland) (Con)
 Ullrich, Kay (West of Scotland) (SNP)
 Wallace, Ben (North-East Scotland) (Con)
 Wilson, Andrew (Central Scotland) (SNP)
 Young, John (West of Scotland) (Con)

AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Mr Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Gray, Iain (Edinburgh Pentlands) (Lab)
 Harper, Robin (Lothians) (Green)
 Henry, Hugh (Paisley South) (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, Etrick and Lauderdale) (LD)
 Kerr, Mr Andy (East Kilbride) (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)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)

Mulligan, Mrs Mary (Linlithgow) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Simpson, Dr Richard (Ochil) (Lab)
 Smith, Iain (North-East Fife) (LD)
 Smith, Mrs Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Thomson, Elaine (Aberdeen North) (Lab)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Presiding Officer: The result of the division is: For 37, Against 54, Abstentions 0.

Amendment 76 disagreed to.

Amendment 77 not moved.

Section 21—Inspections

The Presiding Officer: Amendment 25 is grouped with amendments 27 and 28.

10:45

Malcolm Chisholm: Amendment 25 is a clarifying amendment. It follows from a detailed discussion that took place at stage 2 as a result of an amendment that was lodged by John McAllion. That amendment concerned whether the commission could require information from those whom it suspected of operating a care service without being registered.

As I explained at stage 2, the commission would not write to persons who were suspected of operating an unregistered care service for information about their activities, as that would effectively mean that such persons would be incriminating themselves in their reply. If that were the case, it is likely that any subsequent prosecution would be prejudiced. The amendment therefore clarifies that the commission may require information only from registered care services.

Amendments 27 and 28 deal with the frequency of inspection by the commission. All care services that will be covered by the bill will be subject to inspection by the commission. The inspections will benefit all service users by helping to ensure that all service users are offering an appropriate quality of care. The bill as introduced reflected our position that the commission should have maximum flexibility over inspection. Section 21 provides that all services should be subject to inspection at least once a year, but that the commission can choose to inspect a service at any time with or without notice. That would strike a balance between ensuring that regular inspections are made, to ensure that all services are supported and continue to improve, and leaving

the commission sufficient scope to focus on the services that require most attention.

As I indicated during stage 2, we are now persuaded that a minimum of two inspections a year by the commission would be more appropriate for services that offer 24-hour care away from home. We are also persuaded that at least one of those inspections should be unannounced. Our inspections method working group supports that position. I have therefore lodged amendments 27 and 28 to include those requirements in the bill. The amendments will mean that care homes for adults and children, secure accommodation, boarding schools and some independent health care services are inspected at least twice a year. Unannounced inspections will take place without any formal or informal warning and could take place at any time of day or night. All the other services covered by the bill will have a minimum of one inspection. Over and above that, the commission will retain the power to inspect all services at any time.

I am happy that the proposed arrangements will provide better protection for service users, in particular the most vulnerable groups who are cared for away from home, and I hope that the Parliament will support the amendments.

I move amendment 25.

Amendment 25 agreed to.

The Presiding Officer: Amendment 26 is grouped with amendments 29, 30 and 31.

Malcolm Chisholm: Amendments 26, 29, 30 and 31 are designed to ensure that the commission and HMI work together effectively to deliver an integrated and seamless service in the regulation and inspection of relevant care services.

It can be both difficult and counterproductive to try to separate out the care and education elements of services for pre-school children. The amendments ensure that the commission and HMI will collaborate in their approach to pre-school services, residential units or schools, and secure facilities for children. That would fulfil the commitment that I made at stage 2 when I indicated that we would introduce amendments to reflect our new thinking on the better integration of the roles of HMI and the commission.

Amendments 28 and 29 remove references to HMI from section 21. Those references were included because it was originally planned for HMI and the commission to carry out separate inspections of early education. Amendment 31 provides for a new section, which explicitly requires the commission and HMI to collaborate in the regulation and inspection of care services that include an educational element. The specific care

settings are defined in subsection (2) of the proposed new section. Amendment 26 makes a minor change, consequential to the introduction of the new section. Our aim in making those amendments is to ensure that service users and providers, whether parents, children or institutions, feel that they are dealing with an integrated process for all matters relating to registration and inspection. The intention is that the resultant service will ensure high-quality social development and care, as well as maintaining momentum on raising educational standards. An integrated approach will be forward looking, responding to the changing nature of pre-school and child care provision, where traditional boundaries between care and education are blurring. It will combine the expert eyes of both HMI and the commission, in the best interests of children.

Ministers throughout the Executive support the amendments enthusiastically and are determined to integrate inspections. We intend to back that up with detailed ministerial directions, both to the commission, as provided for under section 1(2), and to HMI. I commend the amendments to the Parliament.

I move amendment 26.

Michael Russell: The proposal to integrate the inspections has been warmly supported by the SNP. I want to raise with the minister a technical point on the published reports. There is an established format for reports by HMI, which is well understood by members of the teaching profession and by concerned parents. I hope that, in the publication of the reports from that integrated approach, that format will be maintained and that, as a result, there will be an ease of understanding of those reports. The minister will be aware that, within the existing formula, it is comparatively easy to pick up the difficulties that exist and the need for continued inspection and remedial action. That format of reporting will be valuable in future, as it will allow us all to be aware of what is taking place. If the minister cannot respond to my point today, I would be grateful for further information as the consultation period and the minister's action take place.

Malcolm Chisholm: As I said, there will be detailed ministerial directions. It is not for me to comment or to make a decision on Michael Russell's point. That is a matter for the Minister for Education, Europe and External Affairs, who I think has heard what Mike Russell said. I will talk to the minister, who I am sure will reply in writing to the member on that matter.

Amendment 26 agreed to.

Amendments 27 to 30 moved—[Malcolm Chisholm]—and agreed to.

After section 21

Amendment 31 moved—[Malcolm Chisholm]—and agreed to.

Section 23—Regulations relating to the Commission, to registration and to registers

Amendment 32 moved—[Malcolm Chisholm]—and agreed to.

Section 24—Regulations relating to care services

Amendment 33 moved—[Malcolm Chisholm]—and agreed to.

Section 24A—Examination of contracts for care services

Malcolm Chisholm: Section 24A was inserted at stage 2 by an amendment in the name of Richard Simpson. It imposes a duty on the commission to examine and comment on contracts between purchasers and providers of care services, when asked to do so by the provider in a range of circumstances. As I said at stage 2, there is a serious issue about commissioning, but section 24A is emphatically the wrong way to deal with it.

We all want a fair and equitable system for the commissioning of care services and we can all agree that the present system does not produce equity and fairness in all cases. Many private and voluntary sector providers have complained about inadequate funding from local authorities. Those providers see that, in some cases, local authorities' own services are well funded in relative terms. That issue is clearly of great interest to the care development group in its consideration of the whole map of long-term care.

However, we are not addressing the issue only in that way. My officials have been in discussion with the Convention of Scottish Local Authorities; Scottish Care, which is the private sector umbrella organisation; and Community Care Providers Scotland, which is the voluntary sector organisation. My officials have agreed to chair an initial meeting as soon as possible to bring together the commissioners and the providers of care. The aim will be to develop a shared understanding of the problems of the present commissioning arrangements and a way forward that is based on equity and realism. The process will not be a talking shop. Providers want reassurances very soon about what will happen to their funding, and COSLA is well aware of the urgency of the situation. The process aims to make progress, in the short term, on the immediate funding situation and seeks to reach agreement on longer-term solutions. I undertake to report the results of the process to Parliament in

due course. The results will also feed into the work of the care development group.

The commission will have an important role in contributing to thinking on the funding of care in general, as it will report to ministers in the Parliament through its annual report. As members know, the intention is that the commission will fulfil the recommendation of the Royal Commission on Long Term Care that there should be a national care commission to take a strategic overview of the care system and its funding and to advise on trends. However, that is totally different from examining individual contracts, as proposed by section 24A.

The Scottish commission for the regulation of care is a non-departmental public body. As John McAllion reminded us in another context, the commission should not intervene in decisions that are made by democratically elected local authorities on the funding for individual providers. It is for elected local authorities to consider the overall interests of their local population and to decide how much of their resources should be spent on purchasing care, taking best value fully into account.

The commission's main purpose is to ensure quality of life and of care for service users. It would be diverted from that purpose if it were to consider funding when considering any individual care service. That would be bound to lead to compromises over care standards and would be a complete distraction in terms of time, effort and focus. If section 24A stands, every care provider could argue that their problem was not the will, but the means to meet the care standards. The commission would quickly become tied up in controversial financial judgments and case-by-case discussions with local authorities on finance. If the commission has to take into account a range of factors, including the financing of the service, it will not be able to press for improvements in quality and the thrust of the bill would be fundamentally undermined.

The commission is not intended to resolve every problem with the care system in Scotland, but only the commission can address quality in a way that ensures that the needs of users are at the centre. We must let it get on with that.

I move amendment 34.

Dr Simpson: Section 24A was inserted at stage 2 and the Executive now seeks to delete it. Members have heard the arguments for that deletion from the minister—I will come to those.

I want to put on record some facts and concerns about care in the community that led me to introduce section 24A. The bill seeks to deliver for Scotland's most vulnerable and needy citizens a quality of care that treats them with respect and

dignity. The principles of the bill that the Parliament will approve today aspire to maximising the autonomy and independence of those who require care. Through the commission for the regulation of care, we will attempt to create care facilities that are fit for purpose and of the highest standards. Through the social services council, we will ensure that the staff are valued, trained and motivated. Those are worthy goals; indeed, all those aspirations are highly commendable. However, without any mention of the funding of care, the bill is doomed to remain simply an aspiration. Without a mechanism to deal with funding, the bill will have problems. Without a mechanism to ensure a level playing field for funding, inequities will remain, either for the quality of care or for the terms and conditions of those who work in care provision. It is vital that the funding issue is addressed, for it will not go away.

11:00

Let us examine briefly the history of care in the community. Ever since the process began of closing long-stay national health service provision, the voluntary, charitable and independent sectors have expanded to accommodate those in need. The past seven years have been characterised by a continuing squeeze on the funding of both public sector and non-public sector providers. However, blame for that cannot be laid entirely on the local authorities, as we should recognise the years of underinvestment in care and the difficulties that were incurred as a result of inadequate resource transfer from health boards.

The reality is that whenever local authorities have difficulty with funding care, they tackle first the problems of those who are at home and in greatest need. That approach is based on the entirely reasonable premise that those who are in hospital, awaiting discharge into community care, are at least being looked after by the NHS. Research in 1997 showed that the number of blocked beds, as they were called then, in Scottish hospitals was around 2,500. Today, despite additional funding from the Government, there are still nearly 3,000 elderly patients languishing in hospital, exposed to the growing risk of hospital-acquired infection, to which the elderly are particularly vulnerable. Meantime, resources in the voluntary and independent sectors are underutilised. Delayed discharges are not only dangerous and distressing for the individuals affected; in addition to the human cost, there is a significant financial cost to the taxpayer.

Let me give one or two examples to illustrate how desperate is the need to address contracting and funding issues. The Church of Scotland is one of our largest not-for-profit care providers. In 1993, its capital expenditure was £5 million. Last year,

that expenditure was down to £1 million and was spent entirely on essential repairs. Why? Because the purchasers—relying on the dedication of that provider—had reduced funding. As a result, seven homes have been closed and the remaining 34 are under threat of closure. Staff wages are no longer linked to the Scottish Joint Council for Local Government Employees terms, although they have, in practice, remained close to those levels.

The Church of Scotland has spent no less than £20 million of its own money to meet revenue costs, yet that provider superannuates its staff and offers 80 training courses annually to Scottish vocational qualification levels 3 and 4. Except for the decaying fabric of its buildings, that employer will meet the care standards of today and most of those of tomorrow. How long can it continue to run any homes if proper levels of funding are not made available?

Crossroads (Scotland) runs 53 care attendance schemes, from Shetland to Stranraer, and the funding increases for the past three years have been zero. As a result, staff have had only one inflation-level pay increase in the past three years, although they are being asked to take on increasingly complex, quasi-nursing tasks. Their social work equivalents are paid more, have greater job security and, in many regions, will not perform the tasks that I have referred to

“because our staff are not insured to do them”.

Crossroads (Scotland) has recently been advised to raise money from private clients to meet that deficit.

The William Simpson Home in my constituency, which looks after those with end-stage complications of alcohol abuse, has received awards for its staff training. The trustees report to me that they have reached the end of the road in their ability to fund activities, because of the squeeze on revenue.

I do not propose to go into great detail about private sector issues, which have made headlines in the past week. If we continue to collude with the Government and local authorities in the funding system, offering low levels of pay and poor staff conditions, and paying minimum wages and no superannuation, how can we realistically expect the quality of care to improve, which is what the bill aspires to? I understand that 100 homes have closed in Scotland. Further closures will reduce choice for those persons who require that sort of care. Many voluntary organisations are funding either capital or revenue costs, or both, out of charitable money. Two thirds of them are no longer able to employ their staff on joint council terms and conditions.

In a post-Sutherland era, the local authority will be the monopoly purchaser of care provision. In

my discussions with providers, I have detected a reluctance to expose funding problems for fear of antagonising the purchaser. I therefore want to acknowledge the positive response that I have had from COSLA, and from David Wiseman and Alexis Jay in particular, about ensuring that the process becomes open, transparent and equitable between public and other providers. The aspirational care standards that are embodied in the bill must not be achieved through either the exploitation of workers in the sector or the charitable contributions of the public.

We need a system that will ensure that funding is fair to all sectors and which recognises and values the importance of a partnership between the Government, the local authorities, the voluntary, charitable and independent sectors, and the workers. We need a system that recognises that, post-Sutherland—with free personal care, with the elimination of the residual Department of Social Security benchmarks, and with the economics of the new single-care home system replacing separate residential and nursing homes—the Government will be the monopoly funder and the local authority the monopoly purchaser with public funds.

I accept that the commission may not be the best organisation to deal with funding issues, as Malcolm Chisholm has said. I share his unease, which was also expressed at stage 2 by John McAllion, about a quango being able to comment in that way on local authority financial matters. As a result, subject to the assurances that the minister has given, I will support the deletion of section 24A. However, I need the minister's reassurance that the series of meetings that he referred to will result in a long-term, sustainable solution that will ensure that our future care standards are not built on the backs of care workers, but recognise the value of those workers.

I can support the deletion of section 24A if, as he said he would, the minister undertakes to report back to the Parliament in the autumn. I hope that he will also consider dealing with the issue in the bill on long-term care of the elderly or the bill on best value. I give notice that, if sustainable solutions are not agreed by all partners, I will seek to ensure that one or other of those bills deals properly with the issue. I am content that the insertion of section 24A at stage 2 has opened up to debate the connection between care standards and funding, which is crucial to the implementation of the bill, and that the crucial importance of funding to the delivery of the aspirations that are enshrined in the bill has been acknowledged. I am happy to support amendment 34.

Mrs Margaret Smith: The nub of the issue is how we can deliver effectively quality care standards backed by a qualified, professional and

motivated staff. It would be ridiculous not to acknowledge the impact that national care standards, and the changes that they will bring about in care services, will have on the financing of care services. A cost will be attached to the laudable aspirations and general principles that we all endorsed at stage 1 and during our stage 2 discussions.

On a pragmatic point, I take issue with the rationale of including the matter in the bill. The Liberal Democrat position is that the commission is not the best organisation to do what is provided for in section 24A. I therefore concur with Richard Simpson's comments, and what I say from here on is based on the Liberal Democrat group's support for amendment 34.

We support amendment 34 for two reasons. First, the commission, set up as it is with a certain number of duties to perform—Donald Gorrie asked whether it will cover too many care services—will have a vast programme to tackle against a backdrop of varying national care standards being introduced in tranches. The commission's role is to register, inspect, monitor and regulate, and to have a strategic overview of the care sector. Its role is not to get involved in the particulars of specific care service contracts, and it would be deflected and diverted from its main focus if it were required to do so.

Secondly, the Liberal Democrats will accept the minister's comments about on-going dialogue with Scottish Care, the voluntary sector, COSLA and, I hope, with unions and staff. The minister is seeking progress in the short term on funding and solutions for the long term, which will be reported back to Parliament.

With the bill on long-term care, which will come before Parliament in the coming months, we will have an ideal opportunity to consider the wider issues in the long-term care sector, many of which have been outlined by Richard Simpson today. Those issues include resource transfers and the impact of health board funding going—or not going—to local authorities, and whether the GAE is being used as it ought to be. They also include the on-going squeeze that goes straight from central Government to local government, down to the voluntary sector care providers and, at the very bottom of the heap, to the poorly paid staff, many of whom are exploited.

Those issues must be subject to an appropriate period of consultation to ensure that they are examined in the round. The coming weeks and months, as we move towards the bill on long-term care, will be the right time for us to do that. I believe, as does the Liberal Democrat group in this Parliament, that our motivation should be the fact that the principles that Richard Simpson outlined in his speech and which his amendment

added to the bill in section 24A are to be applauded and worked towards. That is what we ought to be doing.

I recognise the minister's comments that discussions have begun and that the care development group, moving towards the forthcoming long-term care bill, is the ideal place to consider the matter. I do not believe that the right way to take the matter forward is through the commission. We will be able to consider the issue, taking the required holistic view, in the coming weeks and months.

At the bottom of this is the fact that we have all agreed that we support the Regulation of Care (Scotland) Bill. We aspire to better care services and to having a work force in the sector that is professional, that has its professionalism acknowledged, and that is supported through training. Members of that work force should, ultimately, be supported by having a decent quality of life and decent pay to recompense them for the incredible work that they do in the care sector in Scotland.

The issue must be accepted and dealt with. Bringing together all parts of the sector in on-going discussions, with a view to introducing proposals in the long-term care bill, is a better way of doing that than dealing with the issue in this bill, which has a narrower focus. For those reasons, the Liberal Democrats will support the Executive's amendment 34.

Shona Robison: I begin by paying tribute to Richard Simpson for getting his amendment into the bill at stage 2. In his speech, he laid out why it was necessary. He clearly knows his subject well and delivered a persuasive speech. It is therefore nothing short of tragic that in the face of pressure—probably considerable pressure—he has been forced not to see it through.

Although we all welcome meetings—meetings are always a good thing—it is fair to say that the meeting that the minister had last week with Scottish Care was a fruitless exercise. How are we to be assured that another meeting will produce anything more than that? How do we know that the Executive will not seek to pass the buck back to local authorities, as it did at the meeting last week? The timing of the announcement of a meeting is, to say the least, extremely suspect. It is an attempt to get out of a situation that the Executive has got into because of the lack of assurances that it has given on funding streams.

11:15

Community Care Providers Scotland has made its position clear. It is an association of voluntary sector organisations that provide care in Scottish communities. Those organisations are at the

coalface, so they know best—even better than the minister. The key issue is the link between quality and cost. The voluntary sector welcomes the establishment of the commission and the setting of standards, but it realises that the new standards will be a challenge for the voluntary sector, in the context of many receiving zero inflation budgets and some having their budgets cut by their local authority. As we all know, voluntary organisations do not have the profit margins to absorb additional costs and, as Richard Simpson highlighted, staff pay and conditions are the first casualty.

Section 24A introduced the ability for the commission to examine and comment on any contract or other funding arrangement between a local authority and a voluntary body, when it has failed to meet standards purely as a result of inadequate resources. Voluntary organisations are concerned that, without section 24A, services will have to close because standards are not met due to budget constraints. That would be a tragedy and a practical difficulty, given the number of services that are provided by the voluntary sector in Scotland.

Checks and balances are required in the system. The commission's ability to comment on, not compel, the adequacy of funding arrangements would be a good check on the funding arrangements for voluntary organisations, which are often at the mercy of the local authority, which is, in turn, at the mercy of Government ministers. That check would create some welcome transparency in the funding process.

Mary Scanlon: I also commend Richard Simpson on his speech, and especially on his passion and commitment to care services. He moved the amendment to introduce section 24A at stage 2 with the majority support of the committee. Section 24A addresses major concerns about the provision of care throughout Scotland.

Richard Simpson's amendment, which introduced section 24A, was supported by the Scottish Association for Mental Health, Alzheimer Scotland—Action on Dementia, Capability Scotland, the Richmond Fellowship, Penumbra and many other care providers in Scotland. In the points that I will make, I refer to the document that Community Care Providers Scotland produced for the stage 3 debate.

Margaret Jamieson: Does Mary Scanlon accept that the position of Community Care Providers Scotland is that it accepts amendment 34, in the name of the minister, because it believes that the best way forward is to hold discussions on the matter and address it in other proposals for legislation?

Mary Scanlon: Community Care Providers Scotland has certainly not notified me or my

colleagues that it has accepted the amendment. Perhaps I am a couple of days behind.

Richard Simpson has outlined a basic principle: it is important that the Parliament addresses it. Voluntary organisations are concerned because the link between standard setting and funding will be severed. They will have the impossible task of having to meet new, high standards set by the commission while dealing with zero inflation budgets, and sometimes funding cuts, imposed by local authorities.

Despite the minister's comments this morning about increased funding for local government, it has come to the attention of the Health and Community Care Committee time and again that the increases in funding are not always passed on to the care providers. In our budget deliberations, we could not get information on the provision of community care within local councils. Sir Stewart Sutherland said that local authorities do not always spend the money on care of the elderly. They may spend it on other aspects of social work, but the Parliament has no guarantee or mechanism to ensure that, if we give local government more money to care for the elderly, the mentally ill, the disabled and those with learning disabilities, the money will address the care needs. As Richard Simpson said, voluntary organisations do not have profit margins that they can use to absorb the extra costs that new standards will involve, and when they are left with a funding gap, staff pay and conditions are generally the first casualty.

The main point is that, according to section 24A, in cases where the provider fails to meet standards purely as a result of inadequate funding by local authorities, the commission will have the ability to examine and comment on the contract or funding arrangement. There is no doubt that quality and cost are inextricably linked. There is a need to make funding provisions and local authority contracts and referrals more open and transparent. Without section 24A, staff wages and staffing levels will be cut and many services will have to close down. Such an outcome would seriously undermine the bill's main purpose, which is to raise standards and promote excellence.

More than 100 care homes closed last year and, despite Executive funding to address the issue, there are still around 3,000 delayed discharges to deal with. That situation obviously has an impact on the acute and primary care sectors. People are not receiving the appropriate level of care in the community because they are being held at far greater expense in NHS hospitals. This morning's news that Grampian care home owners will refuse to take any referrals highlights the point that care often costs twice as much in a council home as in the private and voluntary sectors. The retention of

section 24A will allow the scrutiny and transparency of council care home contracts. The council is indeed a monopoly purchaser and the level of openness and transparency to date has not been sufficient.

I accept the minister's comments about the care development group, which is considering the long-term care of the elderly. However, section 24A(1)(a)(ii) says that the commission can "examine and comment on" any contract when asked by any

"provider or any other interested party who has reasonable grounds for believing that there is an unequal distribution in the allocation of public funds to providers to meet similar care needs".

Will the minister assure us today that the care development group—and any future bills—will examine the contracts and ensure openness, transparency and fairness? Will the group also address the issue of care of the mentally ill and disabled?

Mr McAllion: At committee, I voted against the inclusion of section 24A in the bill and I will vote again this morning to delete the section. I should say that no one put me under any pressure to act in that way.

I voted that way partly because, as the minister and Richard Simpson have said, decisions about how the system should be funded should be left not to quangos but to elected politicians, who are accountable for such decisions. Indeed, I am surprised to see that, for the second time in the space of less than an hour, the SNP is supporting the idea of placing quangos above elected politicians. At a hustings meeting in Dundee on Monday night, the local SNP candidate said that he wanted all quangos to be abolished; now we find SNP MSPs arguing that quangos should be placed above elected councils and politicians. They seem to speak with a forked tongue on the issue.

I am also opposed to section 24A because it does not address the problem that it claims to identify. Although it gives a new right of appeal exclusively to providers, allowing them to exercise that new right will not solve the problem, because the commission can then only comment "in writing" on the contract to the purchaser and provider. It does not change the contracts. What happens if the local authority does not have any more money to give the provider? Are those who support the section suggesting that one local children's service should be closed down to release more money for the providers in the elderly care sector?

Ben Wallace (North-East Scotland) (Con): Will the member give way?

Mr McAllion: I will give way to a member who might soon be a recipient of child care services.

Ben Wallace: Why does the member fear transparent contracts between the purchaser and provider? Is it because some Labour councils have an ideological barrier about patient need? We are talking about transparency.

Mr McAllion: I am all in favour of transparency, but section 24A has nothing to do with transparency. Instead, all that it does is give powers to the commission to "comment on" a contract. It does not solve anything or bring any extra money or resources to bear on the problem; it only gives the commission the chance to intervene on a contract between purchasers and providers when the purchasers themselves are elected local authorities that are transparent, accountable and answerable to the electors in their areas. That is the way it should be and I am surprised that any democratic party should be opposed to that.

Dr Simpson: I want to quote from the e-mail I received from David Wiseman after our meeting. He says:

"the local authorities would want to demonstrate an 'even-handed' approach in how we commission services between different types of public, voluntary and private providers, with transparency about intentions for 'managing the market'. Therefore any preferences for one ... type of provider would need to be explicit and defensible since it was recognised that in some instances local authorities may essentially be in competition with voluntary and private sector organisations to provide certain services."

That is the sort of transparency that we are talking about, and COSLA is committed to it.

Mr McAllion: Richard Simpson has made the point that I was just about to turn to. This part of the debate has identified a serious issue. However, although it is the right issue to raise, this is the wrong solution. I think that the Parliament will see the common sense in that position in a moment.

I entirely agree with Richard Simpson that we are talking about one of the most vulnerable and needy sections of our community. The provision of decent nursing care to an increasingly aging population in Scotland is a national responsibility; indeed, it should be a national duty. It should be as much a part of the NHS as any other service, although I realise that that argument is a bit utopian.

I also agree with Richard Simpson that no matter how wonderful any new system might seem on paper, it is absolutely worthless unless it is backed up by the funding and resources to translate ideas into the reality on the ground. That is what we need to do. Indeed, the allocation of such funding will save us money in the longer term. The problem with delayed discharges from the NHS is that hundreds, possibly thousands, of beds across the country are costing a fortune.

Elderly people who should be in nursing homes cannot be transferred out because there is not enough money in the nursing home system to accommodate them. The Parliament has to address that problem seriously.

That said, there are different perspectives on the issue. Members have spoken about the difference between how local authorities fund their own homes and how they might fund homes in the private or voluntary home sector. However, we should also draw attention to the reasons for such differences in funding. Local authorities recognise trade unions and negotiate with them on the wages, employment conditions, pension rights and holiday entitlement of their workers. If the independent sector wants equivalent funding from the local authorities, it will need to deliver equivalent employment terms and conditions for its workers.

I would be quite happy with a private nursing home that agrees to recognise trade unions and negotiates with them to give workers the same wages, the same conditions and the same holiday entitlements. Until private nursing homes do that, they cannot argue for equal funding. This is not just a matter of left versus right. The quality of people who work in nursing homes is critical to the standard of care that is delivered in those homes. If the work force is not motivated, well paid and well looked after, there will be no quality care for elderly people. That is fundamental.

Let us use the same argument that is used in the public services. We hear again and again that any new investment for public services has to lever in change in how those services are delivered. If we are going to give more money to the private and independent sector, we should use that money to lever in change, which means beginning to treat the people who work in that sector with the decency and dignity with which they are treated in the public sector.

Nicola Sturgeon: This debate has been revealing. I should say at the outset that I have more respect for Malcolm Chisholm's position than I have for Richard Simpson's. It is one thing to argue against section 24A in principle; it is an entirely different thing for someone to spend seven minutes putting forward a very powerful and persuasive case for something, just to turn round at the last minute and say that they will vote the opposite way. That says to me and to the people outside the chamber that fear of the Labour whip is more important than issues that concern people in Scotland.

The problem is that, without section 24A, the bill fails absolutely to take account of the link between quality and cost, and no amount of ministerial assurances will change that. It is absolutely right that voluntary organisations will be required to

meet the standards laid down by the commission; however, there will be no obligation on local authority purchasers to ensure that the fees paid by them reflect those higher standards. Given that the current fees paid by local authority purchasers do not reflect the current level of service, what confidence can we have that that will change in the future?

11:30

I support local government absolutely. I will take no lectures from John McAllion on that front. However, local authorities do not always make the right decisions. I should have thought that the member's local experience would have taught him that. I suspect that John McAllion is right to say that the real problem is underfunding of local authorities, which means that they do not have the resources to ensure that fees reflect the level of service. Transparency in contracts will reveal that and tell everyone where the finger should be pointed.

Let us ensure that in this bill we make the crucial link between quality and the cost of quality. To do anything else is simply to engage in rhetoric, without being prepared to put our money where our mouth is. Let us keep the section that Richard Simpson made sure was included in this bill. Let us give providers of care the chance to ensure that what this bill is intended to do can be delivered.

Donald Gorrie: Funding is the key to this issue, and Richard Simpson is right to highlight it. He is also right to accept the deletion of section 24A if the issue that he raised can be dealt with in a different way. Nicola Sturgeon's attack on him was quite disgraceful.

There is no point in an excellent minister producing an excellent bill if there is no improvement on the ground. Our predecessors in the Scottish Parliament 600 years ago noticed that we often lost battles to the English because they were better at archery. They passed lovely bills saying that people must stop practising football and golf and concentrate on practising archery. However, because no practical efforts were made to enforce those laws, we continued to lose battles to the English, while football and golf continued to make progress. There is no point in having a lovely bill unless it can be translated into reality on the ground.

The way forward is to get the funding right, rather than to retain this section in the bill. First, we want an assurance from Malcolm Chisholm that there will be adequate funding, from whatever source, for nursing home accommodation, in order to stop bedblocking. We have made some progress. I was the first person at Westminster to ask questions about bedblocking, about three

years ago. Then the Government had no figures for the problem. Now at least we know the figures, which are depressingly high. We must reduce them. The minister needs to tell us whether enough resources will be made available in future budgets to stop bedblocking.

Secondly, we need to know whether the funding will be sufficient to ensure that we do not run a public service on the slave labour of some of its employees. Some of the wage levels in this sector are absolutely disgraceful. I know that that is not our direct concern, but we are morally involved. If we fund a service, as happens at the moment, in such a way that it can be delivered only by having totally inadequate staff wages and conditions, we must do something about that.

Mary Scanlon: Does Donald Gorrie agree that it is very difficult for care providers such as the Church of Scotland—which Richard Simpson mentioned this morning—to maintain the same wage levels and staff conditions as council homes, given that they receive half the funding per care bed that council homes receive?

Donald Gorrie: That is precisely my point. The Executive and the Parliament must ensure that the enterprise is adequately funded. First, we must not run the service on the inadequate wages of its employees. Secondly, the funding for the organisations involved must be such that the voluntary sector does not have to invest its own money. The funding of homes should be such that they make neither a profit nor a loss on the money that we provide. I would like an assurance from the minister on that.

Thirdly, some homes are subsidised by private residents, who pay more than they should to make up for the inadequate funding of public residents. That is wrong. People who pay privately for their care should pay the full sum for their keep, but they should not be asked to subsidise others.

To sum up, I would like the minister to assure us that we will not underwrite inadequate wages; that the voluntary sector will not have to subsidise places with its own money; and that private residents will not have to subsidise other people. I know that the minister is not allowed to promise lots of good things during an election, but I ask him to indicate that these financial issues will be examined.

The problems cannot be put right overnight, as large sums are involved. However, we need an assurance from the Executive that it recognises the financial problems and will take them seriously. On that basis—without having been leant on, but having had a civilised discussion with Malcolm Chisholm, who is better than some other ministers at that—I am happy to support the amendment.

Ben Wallace: I want to speak against amendment 34, which deletes section 24A, and to reply to some of the points made by Mr McAllion and Richard Simpson.

SNP members are right to say that meetings are all very well, but they are not included in the bill. I am sure that COSLA's dedication to open meetings will be a delight to people in Glasgow, Falkirk and Clackmannanshire, whose councils have left COSLA. COSLA does not work in the interests of those people. That is an important point to make in reply to Richard Simpson's claim that this process will be open and transparent.

The defender of the left from Dundee has told us how brilliant the public sector is. However, Audit Scotland says that private sector homes—I mean not just the profit-making ones, but also the many charitable sector homes—represent better value for money, provide a better service and have better working conditions than council-run homes. The public sector does not work miracles. It is terrified of the fact that, under section 24A, contracts would have to be fair, equitable and transparent.

Mr McAllion: Will the member give way?

Ben Wallace: No, I will not. The people who will suffer if section 24A is deleted are the patients. They will suffer because of John McAllion's views on quangos and so on. What counts is people in care and their needs. Why is Mr McAllion not asking the Executive why it does not give more money to local authorities? Why is he not asking the Executive why it does not agree to fund personal care? I have heard John McAllion provide a good justification for funding personal care.

Mr McAllion: Will the member give way?

Ben Wallace: I will not give way. John McAllion is happy to let the Executive fix a definition of personal care.

This is about transparency, fairness and equity. John McAllion and his colleagues are clearly not interested in that. They are not interested in the care of people blocked in beds. Community care is going down the pan, because Susan Deacon will not talk to private sector homes. We must do what we can for people in long-term care to get them out of a system that is going bankrupt.

Christine Grahame (South of Scotland) (SNP): I feel like an intruder in a debate among members of the Health and Community Care Committee, but in speaking against amendment 34 I want to comment on some of the things that the minister has said.

The minister spoke about equity and realism. How can there be equity when certain providers—those in the private sector—receive £50 less per

person per week from the local authority for providing the same service as homes in the public sector? The minister referred to meetings with COSLA. However, recently I heard a representative of COSLA say on the radio that the request for an additional £50 per person per week for private sector homes was unrealistic. The agenda already has its limitations.

The minister said that not all contracts can come before him. Section 24A does not ask for that. It refers to providers who have

“reasonable grounds for believing that the funding offered by the purchaser does not allow that provider to achieve or maintain the care standards required by the Commission”.

There is a reasonable grounds test that would sift out trivial applications. To John McAllion, I say that the commission's comments could be made public if a provider's application were upheld, which is very valuable. That test applies not just to private care providers, but to all providers.

I did not understand the remarks that the minister made about the role of the commission. Section 1(1)(b) of the bill states that the commission will

“have the general duty of furthering improvement in the quality of care services”.

The provisions of section 24A could be slotted into that. The duty for which section 24A provides is not an inappropriate role for the commission.

The minister referred to quality, but he did not mention choice. The only residential home in Selkirk is in the private sector. Its budget is squeezed and it cannot meet its requirements. The local authority expects the home to ask the families of the residents to make up the difference, but the home will not do that. To John McAllion, I say that the home meets its requirements under the minimum income legislation, although it is struggling against the odds. If that residential home closes—as it might well do under the present circumstances and without the kind of protection that the bill might give it—the residents will be transported 20 or 30 miles away from their original residences and will lose contact with their community. For those reasons, and in the interests of openness, I cannot see the flaws in retaining section 24A. Therefore, I will not support amendment 34.

Malcolm Chisholm: This has been an interesting debate, with several important contributions. Richard Simpson began by saying that the funding of care is not mentioned in the bill. It is not mentioned in the bill because that is not the correct place for it. That is not to say that we are failing to recognise and address the problems; we have implemented a series of measures to address some of the issues that have been raised. I have been aware of the problems since my

appointment as a minister, and, like Richard Simpson, I was pleased to meet representatives of the Church of Scotland not long ago to hear about some of the difficulties that it faces. We are willing to confront those issues.

Nevertheless, members should be wary of overstating their case and misrepresenting the facts. For example, Nicola Sturgeon referred to the underfunding of local government—her description may have been more extreme than that, but that is what I wrote down. The reality is that every local authority will receive a real-terms increase in funding for each of the next three years and the increase in funding for community care this year is 10 per cent.

Shona Robison: The minister's opening remarks were quite heartening, as he said that the Executive recognises the funding problem, but he proceeded to say that the funding that is given to local authorities through grant-aided expenditure is adequate. What solutions does he propose?

Malcolm Chisholm: We will not come up with any solutions unless we realise that the funding situation is complex. If Shona Robison will allow me to continue, I shall address some of the complexities.

Margaret Smith and Mary Scanlon referred to one of those complexities, which is the way in which the distribution of funding and GAE work. Mary Scanlon quoted Sir Stewart Sutherland, who has also drawn attention to the issue, which the Parliament has become increasingly aware of. I am concerned if local authorities are not spending up to their GAE on services for the elderly. That matter needs to be discussed and addressed.

Another issue that has arisen in the debate is delayed discharges. I would be the first to recognise that there are problems with delayed discharges. Nonetheless, in the interests of balance, we should also recognise the fact that the Executive has done more than any previous Government in recent times to address that problem, through the resources that we have allocated to it over the past year and through the new joint working. Delayed discharge figures began to fall over the winter, and I am not aware of any previous year in which that happened. I am not saying that the problem is solved. I am saying that we should keep a sense of proportion and realise that such issues are being addressed. *[Interruption.]* Sorry, I thought that Mary Scanlon was waiting to pounce, but she has not done so yet.

The care development group, to which Mary Scanlon and I referred, is examining all those issues. However, the group has been asked to report within six months and it is not its role to consider individual contracts, although we are

addressing the whole range of issues that have been mentioned this morning. I remind Ben Wallace, who wanted to bring personal care into the debate, that part of our remit is to introduce proposals for the implementation of free personal care.

I reassure Richard Simpson that the process that we are setting in motion will involve a series of meetings with the main players. As I said in my opening speech, we are aiming for long-term, sustainable solutions. I reassure him that I shall report to the Parliament on any progress.

11:45

Mary Scanlon: I have two points to make. First, given the fact that the Executive has allocated millions of pounds to resolve the problem of delayed discharges, is the minister not disappointed that today, after several months, around 3,000 people who should be funded by local authorities and cared for in the community are still in hospitals? Secondly, will the minister assure me that the care development group will consider not only care of the elderly? Am I right to assume that there will be openness, fairness and transparency in local government contracts not only for care of the elderly but for care of the mentally ill and the disabled?

Malcolm Chisholm: The commission will not solve all the problems of community care and neither will the care development group. The group was set up to address specifically the care of older people, which is not to say that we do not care about other people who require care in the community. However, the group's broad remit is circumscribed. I could pass on a copy of that remit to Mary Scanlon if that would be helpful.

It was predictable but wrong of Shona Robison to pick up a suggestion that the series of meetings that I mentioned is timed to coincide with the general election. Community care groups can verify that they have been planning to meet the Executive for several weeks and that the meetings have absolutely nothing to do with the general election.

Shona Robison and Mary Scanlon both referred to a desire for transparency. I completely support the principle of transparency, as does COSLA, as Richard Simpson reminded us. Much activity has been set in motion over a period of time to address the issues that have arisen in the debate. In the vote that is about to take place, members should remember what Margaret Smith said—that supporting section 24A would deflect and divert the commission from its main function. Christine Grahame said that the provisions in section 24A are an appropriate role for the commission. However, as I said in my opening speech, the

commission will have an important role in contributing to thinking about the funding of care in general, and will be able to make general observations to ministers and the Parliament. That will fulfil the recommendation of the Royal Commission on Long Term Care for the setting up of a national care commission. That is one thing, but commenting on individual contracts is another—in terms of the time that it would take and the general principle, which John McAllion highlighted. I thank John McAllion for pointing out the inappropriate role that is proposed in section 24A for non-departmental public bodies.

I end by agreeing with John McAllion that we have a duty to address these issues nationally. I accept that duty and commit myself and other ministers to working to ensure that we find long-term, sustainable solutions to the issues that have been debated in the past half hour.

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

Members: No.

The Presiding Officer: There will be a division.

FOR

Alexander, Ms Wendy (Paisley North) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Mr Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Gray, Iain (Edinburgh Pentlands) (Lab)
 Henry, Hugh (Paisley South) (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)
 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)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)

Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Simpson, Dr Richard (Ochil) (Lab)
 Smith, Iain (North-East Fife) (LD)
 Smith, Mrs Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Thomson, Elaine (Aberdeen North) (Lab)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Adam, Brian (North-East Scotland) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Campbell, Colin (West of Scotland) (SNP)
 Canavan, Dennis (Falkirk West)
 Davidson, Mr David (North-East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Elder, Dorothy-Grace (Glasgow) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fergusson, Alex (South of Scotland) (Con)
 Gibson, Mr Kenneth (Glasgow) (SNP)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Grahame, Christine (South of Scotland) (SNP)
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)
 Harding, Mr Keith (Mid Scotland and Fife) (Con)
 Harper, Robin (Lothians) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Johnstone, Alex (North-East Scotland) (Con)
 Lochhead, Richard (North-East Scotland) (SNP)
 MacDonald, Ms Margo (Lothians) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McGugan, Irene (North-East Scotland) (SNP)
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)
 McLeod, Fiona (West of Scotland) (SNP)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Mundell, David (South of Scotland) (Con)
 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)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Sturgeon, Nicola (Glasgow) (SNP)
 Tosh, Mr Murray (South of Scotland) (Con)
 Ullrich, Kay (West of Scotland) (SNP)
 Wallace, Ben (North-East Scotland) (Con)
 Wilson, Andrew (Central Scotland) (SNP)
 Young, John (West of Scotland) (Con)

The Presiding Officer: The result of the division is: For 53, Against 40, Abstentions 0.

Amendment 34 agreed to.

Section 27A—Local authority applications for registration under Part 1A

Amendments 35 and 36 moved—[Malcolm Chisholm]—and agreed to.

Section 27B—Grant of local authority application under Part 1A

Amendments 37 and 38 moved—[Malcolm Chisholm]—and agreed to.

Section 27C—Condition notices: local authority adoption or fostering service

Amendments 39 and 40 moved—[Malcolm Chisholm]—and agreed to.

Section 27D—Applications under Part 1A in respect of conditions

Amendment 41 moved—[Malcolm Chisholm]—and agreed to.

Section 27J—Report to Scottish Ministers

Amendments 42 to 44, 78 and 45 moved—[Malcolm Chisholm]—and agreed to.

Section 27K—Default powers of Scottish Ministers

Amendment 46 moved—[Malcolm Chisholm]—and agreed to.

Section 29—Register of social workers and of other social service workers

Amendment 47 moved—[Malcolm Chisholm]—and agreed to.

Section 36—Codes of practice

Amendments 48 and 49 moved—[Malcolm Chisholm]—and agreed to.

Section 39—Regulations relating to the Council

Amendment 50 moved—[Malcolm Chisholm]—and agreed to.

Section 40—Power of Council to make rules

Amendment 51 moved—[Malcolm Chisholm]—and agreed to.

After section 41

Malcolm Chisholm: Amendment 52 is the result of discussions at stage 2, during which Richard Simpson and Scott Barrie lodged amendments seeking to place general principles in the bill. I indicated that I was sympathetic to the idea of making explicit reference in the bill to the principles that underpin it and undertook to bring back an amendment for discussion today.

The bill will introduce a new system of care regulation that we intend should have the user of services at its centre. That new system is intended to improve the quality of care services and offer

better protection to vulnerable people who use the services. The amendment that I propose will ensure that, in carrying out their functions and exercising their powers under the act, ministers, the commission and the council will have to act in accordance with principles which put the user of services at the centre.

The principles are that the safety and welfare of people using care services should be protected and enhanced, that their independence should be promoted and that diversity in the provision of care services should be promoted so that users are given choice. The amendment makes clear the principles behind the policy that is being implemented by the bill. I ask Parliament to accept it.

I move amendment 52.

Shona Robison: I would like a little clarification. We welcome the fact that the minister has responded to the concerns raised about the need for a general statement of principles, but I cannot understand why that is to be located after part 2 rather than at the beginning of the bill, which would be the most logical location. I wonder whether I am missing something.

Scott Barrie (Dunfermline West) (Lab): I thank the minister for taking on board the arguments that were made in the committee. I appreciate that the wording that I presented lacked the clarity that is contained in amendment 52 and I am pleased that the amendment encompasses the issues that I argued for in the committee.

Donald Gorrie: The concept behind the amendment is excellent. However, I am concerned about the wording of the principle:

“The independence of those persons is to be promoted.”

Could a clever lawyer argue that “independence” included the notion of financial independence and that whatever arrangements were made were hostile to the person’s financial independence? That might lead to the issue being questioned. I have no doubt that someone more intelligent or skilled than me has thought of that, but we must try to keep one step ahead of the Gordon Jacksons of this world, who make lots of money by the clever construction of words.

Mary Scanlon: I welcome the statement of the general principles, and I particularly welcome the principles relating to the safety and welfare of all persons, the diversity of the provision of care services and the element of choice, which Christine Grahame talked about. Those are important principles. Given that much of the work of the bill will be done by regulations that will be considered at a later date, I hope that those regulations will take account of the general principles and will not contradict them.

Dr Simpson: I join in the welcome for the inclusion of the general principles. As a generality, bills of this sort should include general principles. The minister will recall that we discussed whether there should be a fifth principle about consultation. However, the significant number of amendments relating to consultation that we have already debated have largely satisfied my concerns in that regard.

Malcolm Chisholm: Shona Robison asked about the position of the statement of general principles in the bill. People will not worry about its position, but I point out that the reason for its being placed where it is is so that it comes after the sections that describe the commission and the council. There would be drafting problems if we referred to those bodies without having defined them. That is the practical reason—I am sure that Shona Robison is less concerned about that matter than some other people are.

I thank Richard Simpson for his words about consultation. As I said earlier, we have inserted references to consultation throughout the bill, which is a more effective way of ensuring that there is adequate consultation than inserting a general principle about consultation. If we had done both, there might have been some tension. I think that we chose the correct option.

Donald Gorrie talked about financial independence. He is specialising in asking me difficult questions this morning. However, as I am neither Gordon Jackson nor a clever lawyer—which might be the same thing—I do not totally understand the point that he is making. Perhaps we can have one of those civilised conversations that he referred to earlier, unless he wishes to press me on the matter at this point.

Amendment 52 agreed to.

After section 44

Amendment 53 moved—[Malcolm Chisholm]—and agreed to.

After section 51

The Presiding Officer: Amendment 54 is grouped with amendments 55, 59, 68 and 69.

Malcolm Chisholm: Section 50 of the Children Act 1975 enables a local authority to make maintenance payments to a person other than a parent who is looking after a child.

At stage 2, I accepted the principle behind the amendment that Margaret Jamieson helpfully lodged, which sought to raise the child's age limit for qualifying for such payments from 16 years to 18 years. That would bring the age limit into line with that for fostering allowances. Amendment 54 fulfils that agreement.

I was pleased to lodge amendment 55, which concerns the giving of advice and assistance to vulnerable young people who have been in local authority care. The provisions will amend the current provisions in section 29 of the Children (Scotland) Act 1995, which deal with local authority provision of aftercare for children who are formally looked after by local authorities. Local authorities will be required to make an assessment of the needs of young people who qualify and establish a procedure for considering representations about the work that they do in that regard. Scottish ministers will be empowered to make regulations specifying to whom assistance may be given and how assistance is to be provided. That will help ensure consistency throughout Scotland.

12:00

Most members will be familiar with the statistics from our recent debate on looked-after children. I make no apology for restating them, so that we are reminded of the problems that young people can face: up to 75 per cent of care leavers leave school with no educational qualifications; up to 50 per cent of them may be unemployed; and about 20 per cent of them are likely to experience some form of homelessness within two years of leaving care. We are determined to make improvements to ensure that those young people have a better chance of making a successful transition to independent living. One of the problems with the current arrangements is that of young care leavers falling through the gap between local authority support and the Department of Social Security system.

In 1999, we consulted on proposals to transfer to local authorities the resources that the DSS currently spends on certain benefit entitlements for 16-year-old and 17-year-old care leavers. Our aim is to create a one-stop shop, thereby strengthening the support that is available. There was general support for the broad principle and we decided to press ahead with the proposals, but only after carefully considering the details. They are being examined by a working group, with representatives from local authorities and other key players, such as Glasgow's Big Step social inclusion partnership and the Scottish Throughcare and Aftercare Forum. We expect their report later this year.

A clear message from the consultation, which I understand the working group has also picked up, is the need for consistency in the giving of advice and assistance. The regulatory powers in the amendments will allow us to set an overall framework, which should help to ensure that there is no difference in the level of advice and assistance that is given to any young care leaver,

wherever they might live.

Amendment 59 adds to the regulations and orders that must be approved by the Parliament before they can become statutory instruments. That reflects views expressed by the Subordinate Legislation Committee that certain key subordinate legislation powers should be subject to the approval of the Parliament. I am happy to accord with the committee's view.

Amendments 68 and 69 amend the long title, to accommodate the changes that we propose to maintenance payments for children and aftercare of care leavers.

The amendments in this group will all help to reinforce the bill.

I move amendment 54.

Cathy Jamieson (Carrick, Cumnock and Doon Valley) (Lab): I am delighted at the proposals to improve the quality of aftercare services, as that is something on which young people who have been through the care system have made vocal representations. I also support amendment 54, the subject of which, as the minister indicated, was raised by Margaret Jamieson. It is a small amendment to the Children Act 1975, but it will have a significant impact on people who care for young people who technically are not looked after—in foster care within the system. The amendment will be of particular benefit to people such as relatives, including grandparents, who have taken on the responsibility of caring for a young person, often at their own expense.

Amendment 54 will give local authorities the opportunity to continue to provide some financial assistance once a young person reaches the age of 16, thereby ensuring that he or she is not left without appropriate support as they make the transition into adulthood. That has been sought for a long time by young people and organisations who deal with the problems of homelessness. It is very welcome that it is to be included in the bill.

Tricia Marwick (Mid Scotland and Fife) (SNP): I welcome the strengthening of the duties to be placed on local authorities, particularly those with regard to young people leaving care. Cathy Jamieson knows from her background and experience how difficult it is for young people to make that transition. When the Children (Scotland) Act 1995 was passed, most of us had great hopes that there would be an end to young people being abandoned at the age of 16. The fact that that has not happened has led to difficulties—and to amendments being lodged today.

There is one more thing in relation to young people leaving care that the Executive should take on board. Stage 3 consideration of the Housing

(Scotland) Bill is coming up. I would like Malcolm Chisholm to urge his ministerial colleagues to make provision for 16-year-olds and 17-year-olds to be considered as in priority need in the context of housing and homelessness.

Mary Scanlon: I will speak to amendment 59 to highlight the fact that fostering and adoption were discussed during stage 2. Will the minister consider bringing the 2,200 fostering households within the scope of the bill for the purposes of registration? Childminders are registered, although they care for children for far shorter periods than foster carers. Members received a note from the National Foster Care Association, which asks for foster carers to be considered. I do not know whether this is the appropriate point for such consideration to be given, but foster carers should be taken into account when statutory instruments are made under the bill.

Scott Barrie: I congratulate the minister on lodging amendment 55. The Social Work (Scotland) Act 1968 placed aftercare duties on local authorities, which were strengthened in the Children (Scotland) Act 1995. At the time, a number of people who worked in child care thought that that would be the end of the matter. Amendment 55 crystallises exactly what we thought the 1995 act achieved.

The minister was quite right when he said that different local authorities interpret the duties in different ways and that, unfortunately, 18 to 21-year-olds are losing out. Young people who leave local authority care at the age of 16 seem to get a reasonably good service until they turn 18. The discretionary element in the 1995 act in relation to 18 to 21-year-olds must be strengthened if we are to be serious about providing integrated services to a vulnerable group—the minister provided the chamber with relevant statistics earlier.

I would like to clarify subsection (4) of the proposed new section on aftercare, which reads:

“Regulations under this section may make different provision for different areas.”

Will the minister explain what he believes that might entail? The crux of the minister's earlier comments was that there should be equity of service throughout Scotland; that is what we should urge local authorities to provide. I would be concerned if deviation from that national pattern was to be allowed.

Malcolm Chisholm: Several points have been raised by members who have great expertise and experience in the area of child care—a great strength of the Scottish Parliament is that we have so many members who, in their former lives, have been heavily involved in the areas that we discuss. That certainly applies to Cathy Jamieson, Tricia Marwick and Scott Barrie as far as this group of

amendments is concerned.

I welcome the fact that Cathy Jamieson was pleased with the amendments, as I know that she has taken an interest in child care for a long time. She said that the amendments would improve the quality of aftercare services, which is their fundamental objective.

Tricia Marwick, who has housing experience, welcomed the extra duty on local authorities. She tried to tempt me back into my former housing portfolio, but I do not think that Margaret Curran would appreciate it if I were to take up that challenge.

I will move on to Mary Scanlon's point. I think she was referring to whether foster carers should be registered with the Scottish social services council. There are complex arguments around that issue, given its interrelationship with reserved areas, such as the status of employees. I believe that is why the registration of foster carers has not been taken up. Mary Scanlon will understand that the Executive is able to consider those matters and the council will be involved in discussing them in future.

Scott Barrie queried subsection (4) of the new section on aftercare. I assure him that its use would be entirely exceptional. It is clear that the fundamental thrust of this group of amendments is to ensure consistency throughout Scotland.

Amendment 54 agreed to.

After section 52

Amendment 55 moved—[Malcolm Chisholm]—and agreed to.

Section 55—Interpretation

Amendments 56 to 58 moved—[Malcolm Chisholm]—and agreed to.

Section 56—Orders and regulations

Amendment 59 moved—[Malcolm Chisholm]—and agreed to.

Section 58—Repeals and power to amend or repeal enactments

Amendment 60 moved—[Malcolm Chisholm]—and agreed to.

Schedule 1

THE SCOTTISH COMMISSION FOR THE REGULATION OF CARE

Amendment 61 moved—[Malcolm Chisholm]—and agreed to.

Schedule 2

THE SCOTTISH SOCIAL SERVICES COUNCIL

Amendment 62 moved—[Malcolm Chisholm]—and agreed to.

Schedule 3

MINOR AND CONSEQUENTIAL AMENDMENTS

The Presiding Officer: Amendment 63 is grouped with amendments 64, 79, 65, 66 and 67.

Malcolm Chisholm: This group of Executive amendments proposes changes to existing legislation to take account of the changes made by the bill.

Amendment 63 is a simple, technical amendment to update the definition of secure accommodation in the Children (Scotland) Act 1995, to take into account the changes that will be made by the bill.

Amendment 64 amends part of the Criminal Procedure (Scotland) Act 1995. The amendment is being made to take into account changes to the Mental Health (Scotland) Act 1984, which are made by schedule 3. It is a simple consequential amendment that is required in the light of previous amendments.

Under section 31(1), the council must satisfy itself that an applicant for registration "is of good character". Similarly, under section 7(2), the commission can request information to determine whether a care service should be registered. The purpose of those checks is to ensure the protection of children and of some of the most vulnerable adults in our society. For that reason, it may be appropriate to require enhanced criminal record certificates for individuals who apply for registration or employment in a care service at the time of registration.

Amendment 79 amends section 115(5) of the Police Act 1997, which deals with enhanced criminal record certificates. The amendment will enable the council to require all social services workers who apply for registration to obtain an enhanced certificate. Likewise, the commission will be able to require anyone who is employed in a care service at the time of registration to obtain a certificate. Amendment 79 also removes a reference to registration under section 71 of the Children Act 1989. That section is already repealed under schedule 4.

Amendment 65 corrects the erroneous numbering of an insertion to the Criminal Procedure (Scotland) Act 1995 that was made by the Adults with Incapacity (Scotland) Act 2000 in connection with an intervention order.

Amendment 66 inserts a definition of an intervention order under the Adults with Incapacity

(Scotland) Act 2000 into the Criminal Procedure (Scotland) Act 1995.

Finally—members will be pleased to hear that word—amendment 67 repeals paragraph 61(b) of part II of schedule 1 to the Tribunals and Inquiries Act 1992. The amendment removes the reference to the tribunal system from the Social Work (Scotland) Act 1968 to take into account the new system that the bill will create.

I move amendment 63.

Amendment 63 agreed to.

Amendments 64, 79, 65 and 66 moved—[Malcolm Chisholm]—and agreed to.

Schedule 4

REPEALS

Amendment 67 moved—[Malcolm Chisholm]—and agreed to.

Long title

Amendments 68 and 69 moved—[Malcolm Chisholm]—and agreed to.

The Presiding Officer: That concludes the debate on the amendments. The motion to pass the bill will be debated following question time this afternoon.

Business Motion

12:12

The Presiding Officer (Sir David Steel): Our final item this morning—it has been an excellent morning's work—is business motion S1M-1972, in the name of Tom McCabe.

Motion moved,

That the Parliament agrees—

(a) the following programme of business:

Wednesday 6 June 2001

2.30 pm Time for Reflection

followed by Parliamentary Bureau Motions

followed by Business Motion

followed by Committee of the Whole Parliament: Stage 2 Debate on the Scottish Local Authorities (Tendering) Bill

followed by Stage 3 Debate on the Scottish Local Authorities (Tendering) Bill

followed by, no later than 4.00 pm Question Time

followed by, no later than 4.40 pm First Minister's Question Time

5.00 pm Decision Time

followed by Members' Business - debate on the subject of S1M-1783 Brian Adam: Prescription Charge Exemption for Severe and Enduring Mental Illness

Wednesday 13 June 2001

9.30 am Time for Reflection

followed by Parliamentary Bureau Motions

followed by Stage 3 Debate on the Housing (Scotland) Bill

2.30 pm Continuation of Stage 3 Debate on the Housing (Scotland) Bill

7.00 pm Decision Time

Thursday 14 June 2001

9.30 am Parliamentary Bureau Motions

followed by Executive Business

followed by Business Motion

2.30 pm Question Time

3.10 pm First Minister's Question Time

3.30 pm Executive Business

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business

and (b) that the Justice 1 Committee reports to the Justice 2 Committee by 11 June 2001 on the Sex Offenders (Notification Requirements) (Prescribed Police Stations) (Scotland) (No. 2) Regulations 2001 (SSI 2001/190).—[*Euan Robson.*]

Motion agreed to.

12:13

Meeting suspended until 14:30.

14:30

On resuming—

Question Time

SCOTTISH EXECUTIVE

Football

1. Karen Whitefield (Airdrie and Shotts) (Lab): To ask the Scottish Executive what steps it is taking to ensure that the views of football supporters are taken into account by the football authorities. (S1O-3512)

The Deputy Minister for Sport, the Arts and Culture (Allan Wilson): The football authorities know that supporters' views must be taken into account if the professional game is to prosper. Following meetings that I have had with the football authorities and supporters organisations, we plan to arrange a conference in the autumn to consider the role of football clubs in their local community.

Karen Whitefield: Is the minister aware of the concerns and anger of many Airdrieonians Football Club fans regarding the involvement in their local club of a man who is chairman of Ayr United Football Club, vice-chair of the Scottish Football League, a board member of the Scottish Football Association and provisional owner of Airdrie football stadium? Does the minister think it appropriate that an individual should have significant interests in two SFL clubs, as well as senior positions in the organisations that could be asked to arbitrate on whether such involvement constitutes a conflict of interest?

Allan Wilson: Football, like other sports in this country, is largely self-regulated. Ministers have no locus to interfere in the affairs of the sport's governing bodies. I am aware of Airdrie supporters' concerns, because I met them and Karen Whitefield. Following that meeting, I wrote to the SFL emphasising the importance of avoiding inappropriate conflicts of interest and of retaining the Shyberry Excelsior Stadium as a local community asset. Football's governing bodies know that they need to conduct their affairs in an open and above-board way if they are to earn the confidence of the football community, of Airdrie supporters and of all other supporters.

Dennis Canavan (Falkirk West): Will the Scottish Executive take into account the views of Falkirk football supporters by expediting approval of Falkirk Council's structure plan to enable the building of the new stadium to begin as soon as possible?

Allan Wilson: I am happy to meet representatives of any football club's supporters. The secondary issue to which the member refers is a matter for the minister responsible for planning, rather than for me.

Mike Watson (Glasgow Cathcart) (Lab): Will the minister confirm that, when he next meets the football authorities to discuss football supporters trusts, he will urge them not to see trusts as a threat or takeover? Supporters trusts are set up because people who have an emotional investment in a club want to make a minor financial investment in it, beyond paying for tickets on a weekly basis or buying the latest version of the strip.

Allan Wilson: I agree entirely with what the member has said. I made the same point to the football authorities at my most recent meeting with them. The Executive believes that there should be more openness and transparency in the financial and other management of football clubs. We welcome the licensing scheme that the European football governing body, UEFA, is producing to that end.

Schools (Refurbishment)

2. Michael Russell (South of Scotland) (SNP): To ask the Scottish Executive how long it will take to deal with the current backlog of repair and refurbishment of local authority schools. (S10-3504)

The Minister for Education, Europe and External Affairs (Mr Jack McConnell): Through a number of generous funding arrangements, we are enabling authorities to take positive steps to tackle the years of neglect of school buildings that were the legacy of the 20 years before 1997. We are discussing with local authority representatives aspects of school building needs, with a view to clarifying the level of need for improvement, and establishing strategic priorities for the future and the best use of financial support for planned improvement.

Michael Russell: In addition to those steps, will the minister consider two other measures? The first is the establishment of a minimum tolerable standard for school accommodation, which would not include rain penetration of windows that are boarded up because the frames cannot hold glass, as is the case in one primary school in the south of Scotland. The second is to make a special repair allocation to local authorities as quickly as possible to overcome difficulties such as the one that I have described. That would make schools much more acceptable very quickly.

Mr McConnell: Over the past two years, we have regularly made special repair allocations to schools. I remember the Opposition parties

accusing us of taking a piecemeal approach when we did that. Such money is welcomed by schools and is used to good effect.

Instead of spending time defining a minimum tolerable standard, we must build new schools, renovate schools, refurbish them and tackle the backlog of repairs. Throughout Scotland, considerable investment is being made through the new deal for schools, public-private partnerships, general repairs funding and capital allocations to local authorities. New schools are appearing throughout Scotland and I assure the member that there are many more to come.

George Lyon (Argyll and Bute) (LD): Is the minister aware of the innovative proposals of Argyll and Bute Council to tackle the huge backlog of repairs in Argyll and Bute, which it is estimated will cost some £50 million? Is the Executive backing Argyll and Bute Council's proposals and is it allocating money to help to progress those proposals?

Mr McConnell: Yes, with the caveat that the local authorities must accept some responsibility for their stock and the financing of school repairs and new school buildings—the money should not come solely from the Executive. It is important that the Executive's financial support is recognised and continues to be well used. George Lyon will be aware of a £200,000 investment by the Executive in the development of Argyll and Bute's public-private partnership. Members of other political parties condemn that PPP scheme—

Tommy Sheridan (Glasgow) (SSP): Absolutely. The schools could be built more cheaply.

Mr McConnell: However, it is important that the people of Argyll and Bute realise that the schools that are being built there would not be built at all if that PPP scheme was not in place.

Paul Martin (Glasgow Springburn) (Lab): Will the minister join me, local head teachers and pupils in welcoming the public-private partnerships, through which £1.2 billion will be invested in Glasgow's secondary schools? Instead of having to listen to political soundbites from Opposition members, would he appreciate the opportunity to visit those schools, whose head teachers and pupils welcome that investment?

Mr McConnell: I welcome the investment in Glasgow, where more than £200 million is refurbishing schools to a high quality. I hope that the people of Glasgow will hear the comments of Mr Sheridan, who clearly does not want the new schools to be built.

Tommy Sheridan: I want our schools to be built with public money.

Mr McConnell: They are public schools and it will be public money. Next year, All Saints Secondary School in Glasgow—which I believe both Mr Martin and Mr McAveety attended—will be knocked down and replaced with a new school. I hope that, when that new school is built, Mr Sheridan will welcome it, too.

Sleep Apnoea

3. Mr John McAllion (Dundee East) (Lab): To ask the Scottish Executive what provision the national health service in Scotland makes for the treatment of sleep apnoea. (S1O-3515)

The Deputy Minister for Health and Community Care (Malcolm Chisholm): Individual health boards and national health service trusts should co-operate to plan and provide services for the treatment of sleep apnoea.

Mr McAllion: Is the minister aware that a recent petitioner to the Parliament, who was complaining about access to services for the diagnosis and treatment of sleep apnoea, pointed out that, whereas in the past patients had to wait three months to access those services, some people are now having to wait up to two years to access them? Given the serious nature of the condition and the fact that there is a recognised and available treatment, does he recognise the importance of his acknowledging such complaints and producing proposals to increase funding to begin to match the massive increase in the demand for the service?

Malcolm Chisholm: I am aware of the petition and I recently spoke to the person who submitted it to the Parliament. There is a problem in Edinburgh, due to the increasing demand for what I, as a constituency MSP in Edinburgh, know is a valuable service. I am pleased that the trust is working with Lothian Health and other health boards in Scotland on a review. That review will report in June and I hope that there will be progress in the very near future. A Scottish intercollegiate guidelines network guideline will also be issued soon, which will give guidance on both the diagnosis and the treatment of sleep apnoea.

Water Industry

4. Tommy Sheridan (Glasgow) (SSP): To ask the Scottish Executive whether competition is beneficial to the water industry. (S1O-3514)

The Minister for Environment and Rural Development (Ross Finnie): The crucial question is whether competition is good for customers, rather than whether it is good for the water industry. In our consultation paper on the proposed water services bill, we have made it

clear that, within the right framework of legislation, competition will deliver to customers the benefits of efficiency, innovation and improved services without compromising drinking water quality or social or environmental objectives.

Tommy Sheridan: The minister will be aware that that is exactly what the Tories said about gas, electricity and rail privatisation. Will he confirm that the coalition Executive has rejected the option of seeking exclusion from the provisions of the Competition Act 1998, thus paving the way for the privatisation of Scotland's water industry? Will he further confirm that the Executive intends to impose on our water industry cuts of £168 million, resulting in the loss of 2,500 jobs? Scotland's largest public sector union, Unison, has said that—

The Presiding Officer (Sir David Steel): Order. We have had the question.

Ross Finnie: Mr Sheridan misses an important point, which is that, by blocking competition, we would run the serious risk that some major users would opt out of using the publicly owned water services company, irrespective of the legislation.

Tommy Sheridan: The minister should not mislead people.

Ross Finnie: It is not a question of misleading people. The large private organisations would opt out of that service. That would not reduce the cost, but it would impose on the customers, for whom we should be concerned, a burden that they will not be able to sustain. The Scottish Executive is absolutely committed to keeping in place a publicly owned Scottish water service delivering the highest-possible quality of water and sewerage services at the most competitive price to those who pay for them.

Richard Lochhead (North-East Scotland) (SNP): Page 5 of "The Water Services Bill - The Executive's Proposals" explains that four types of licence will be available to the private sector in Scotland and the rest of the world to take over Scotland's water industry. How can the minister reconcile that with his statement that he is going to keep the water industry in public ownership? Why does he not come clean to this chamber and the people of Scotland and admit that those proposals will privatise Scotland's water industry?

Ross Finnie: There is absolutely no evidence of that. The fact that some people may want to gain access to the market does not mean that there will be access to the majority of services and it does not mean that the proposed bill will result in a privatised industry. For those who were not listening, I repeat: the Scottish Executive is committed to keeping water services in public ownership.

Cathy Jamieson (Carrick, Cumnock and Doon Valley) (Lab): I thank the minister for his repeated statements of the Executive's commitment to keeping the water industry in public ownership. Will he assure me that he will consider the experiences of Welsh Water and the opportunities that have arisen to return control of Welsh Water to a form of public ownership and that he will learn the lessons relating to the mutual sector when consideration is given to a future form for the industry in Scotland?

Ross Finnie: Cathy Jamieson has already approached me on that issue; I recognise her interest in the nature and structure of the body that will ultimately own the new Scottish service. We have not come to a conclusion on the matter and the issue is being consulted on. My mind is open to ensuring that that body is in public ownership and will have a structure that will ensure that it remains in public ownership.

Mr David Davidson (North-East Scotland) (Con): I congratulate the minister on his enlightened approach. What plans does he have to utilise in partnership with the private sector the resources and expertise of that sector, which would help to provide high-quality services at a lower price to the consumer?

Tommy Sheridan: What about the 2,500 jobs that would be lost?

Ross Finnie: I am always slightly nervous when Mr Davidson regards my approach as enlightened; he has given me my first doubt about the proposals. The issue is not one of harnessing people in the private sector. We want to construct a Scottish water industry that will be in a position to resist competition from other sources. For Mr Sheridan's benefit, I point out that that position would be one from which it could protect people's jobs.

Tommy Sheridan: Unison said that 2,500 jobs would be lost.

The Presiding Officer: Order.

Ross Finnie: I repeat to Mr Sheridan: if the Scottish water industry starts to lose customers, that is when jobs will be lost. The only way in which we can protect jobs is by having a Scottish water industry that can deliver water and sewerage services at the most competitive price.

National Health Service (Funding)

5. Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD): To ask the Scottish Executive whether the criteria applied in the Arbutnott formula to determine rurality take into account the distance between local communities and their nearest NHS hospital. (S10-3503)

The Minister for Health and Community Care (Susan Deacon): The Arbutnott committee examined very carefully the evidence on the effects of the remoteness and rurality of areas on the costs of providing them with health care. The indicator of remoteness, as recommended in the final report, is the number of road kilometres per 1,000 population. That indicator reflects the extent to which communities are dispersed over a large area and is the factor that influences the need to provide small hospitals in remote and rural areas to ensure that services are accessible.

Mr Rumbles: The minister will be aware that, although every other health board in the country is projected to receive much more than £1,000 per person through the Arbutnott formula, Grampian Health Board is to receive just £991 per head. Given that the majority of people in Grampian live in rural communities and need rural health services, and given that ministers, including the Minister for Health and Community Care, have said in this chamber that Arbutnott is good for rural Scotland, why are we in the Grampian area down at the bottom of the league for funds? It is no use the minister shaking her head. Does she agree that Arbutnott is failing in its aim of ensuring a fair and equitable distribution of those badly needed health funds?

Susan Deacon: I do not agree with Mr Rumbles's statement. We should remember that the Arbutnott formula is a radical and, rightly, distinctively Scottish measure, which was designed to put in place a better, fairer funding formula for the national health service in Scotland. For the first time, it allows for an examination of how resources can be allocated based on need, particularly on the needs of remote and rural areas and of more deprived areas.

I think that that is a major step forward. It is the first change of its nature to take place in the United Kingdom and it is the first change in funding formula arrangements in the NHS in Scotland for 20 years. It was the product of two years of comprehensive, thorough work, of two full consultations and of extensive deliberations by the Parliament and the Health and Community Care Committee. I believe that the formula is fair and that every part of the country can have confidence in what is a fair and honest way to consider need. It is undoubtedly true that, in any health board area, there are variations of need—there are pockets of deprivation in all parts of the country. The Arbutnott formula considers each health board area globally and assesses need accordingly, which I think is right and fair.

Andrew Wilson (Central Scotland) (SNP): Given what the minister has just said about resource allocation in the health service, does she agree with George Foulkes, the Scotland Office

minister, that Scotland receives more than its fair share of UK health spending, or does she agree with me that, with friends like that in London, we do not need enemies?

The Presiding Officer: That was not relevant to the question. We will move on.

Kelvin Hall International Sports Arena

6. Ms Sandra White (Glasgow) (SNP): To ask the Scottish Executive what representations it has received concerning the proposed sale of the Kelvin Hall International Sports Arena. (S10-3505)

The Deputy Minister for Sport, the Arts and Culture (Allan Wilson): None, because there is no such proposal.

Ms White: Mr Wilson must contact different people in Glasgow City Council from the ones I do. I have received plenty of representations on the issue—nearly 1,000 signatures. Does he agree that the loss of the Kelvin Hall would be a major blow for Glasgow, and that we need investment in community facilities, not the sell-off of vital public assets?

Allan Wilson: That is entirely typical of the Scottish National Party's scaremongering, which we have come to expect in the chamber. Several weeks ago, I received representations on the issue from the constituency member, Pauline McNeill, and my officials made inquiries of the city council in order to establish the status of the press comments on which Ms White is clearly basing her question. Those inquiries confirmed that Glasgow City Council is at a very early stage of considering the options consequent to the possible relocation of the Museum of Transport. The council will fully consult the local community, sportscotland, the Scottish Athletics Federation and any other interested party before coming to a decision. Council representatives have already met representatives of sportscotland to explain the position to them.

The Presiding Officer: Question 7 has been withdrawn.

Dental Health

8. Irene Oldfather (Cunninghame South) (Lab): To ask the Scottish Executive what action is being taken to improve dental health. (S10-3529)

The Deputy Minister for Health and Community Care (Malcolm Chisholm): "An Action Plan for Dental Services in Scotland", which was published on 20 August last year, sets out a number of initiatives aimed at improving the dental health of the people of Scotland.

Irene Oldfather: Will the minister join me in

welcoming the Ayrshire and Arran figures on dental registration for young children, which are 14 per cent above the Scottish average? Can he reassure parents following recent publicity about reviewing guidance on dental X-rays for children?

Malcolm Chisholm: I welcome the figures and the fact that Ayrshire and Arran Health Board is developing an oral health strategy. I am unable to comment in detail on Irene Oldfather's second point, in view of the fact that the case mentioned in the papers today is before the General Dental Council. However, I assure her that patient protection is paramount for the Executive. She can be assured that we are taking action in general terms in the area to which she refers.

Education (Qualifications)

9. Des McNulty (Clydebank and Milngavie) (Lab): To ask the Scottish Executive what factors contributed to the general improvements in standard grade results identified in "Scottish School Leavers and their Qualifications: 1998-99". (S10-3522)

The Minister for Education, Europe and External Affairs (Mr Jack McConnell): Improved standard grades and other improvements in attainment are the results of the hard work of Scotland's pupils and teachers. Those improvements are supported by comprehensive investment in education and a clear policy framework, including target setting, which has acted as a focus for improvement in schools.

Des McNulty: I thank the minister for his answer. Will he provide reassurance that, contrary to reports in this morning's newspapers, there will be no move away from external examiners in the conduct of the Scottish examinations system?

Mr McConnell: Yes, I am able to provide that reassurance.

I will make two points. I am desperately keen to involve the stakeholders in Scottish education in policy formulation and the reviews that we are conducting, but that involvement cannot be abused in a way that results in exaggerated reports in newspapers or in options that exist to be analysed being represented as proposals or conclusions. I hope that today's report is not taken seriously by anyone. The external examiners provide a vital integrity to the Scottish assessment and examination system and to our education system as a whole. We intend to retain them.

The remit of the group is to reduce the burden of internal assessment for pupils and teachers, among other things. I want the group to reach its conclusions as quickly as possible.

Kate MacLean (Dundee West) (Lab): As we are discussing improvements in education, is the

minister aware that Dundee City Council's education department has received an excellent report from Her Majesty's inspectorate of education? Dundee City Council is the first and, I believe, the only education department so far to receive very good scores for any of the inspectorate's indicators. I understand that the department scored above the line in all 11 indicators, with two scores of very good and nine scores of good.

Will the minister join me in congratulating all those who have worked hard over recent years to make Dundee one of the best areas at educating children?

Mr McConnell: All members in the chamber should warmly congratulate Dundee City Council. The local authority faces a number of challenges, but the report by Her Majesty's inspectorate of education on its education department is first class. The department and the schools in Dundee deserve congratulations on that. I suspect that some of those congratulations should be directed towards the member for Dundee West who, I believe, was the council leader when the director of education was appointed—well done.

Dorothy-Grace Elder (Glasgow) (SNP): Might results also be improved if all examination questions, for school children and students, were subjected to the Plain English Campaign? If the minister studies examination sheets, as I have had the misfortune to do, he will discover that some of them are heavily laden with gobbledegook, jargonism and stuff that the children cannot understand. I am not referring to trick questions, which will always remain.

Will the minister consider subjecting examination questions to the Plain English Campaign? Never mind the answers—give the kids a break and let them at least understand the questions.

The Presiding Officer: Did you understand the question, minister? [*Laughter.*]

Mr McConnell: For the sake of a short answer—yes.

Regional Selective Assistance

10. Christine Grahame (South of Scotland) (SNP): To ask the Scottish Executive, further to the answer by Ms Wendy Alexander to question S1O-3411 on 10 May 2001, how much of the £4 million of regional selective assistance offered to companies in the Scottish Borders has been disbursed. (S1O-3508)

The Minister for Enterprise and Lifelong Learning (Ms Wendy Alexander): As the member said, £4 million has been offered to projects in the Scottish Borders through regional selective assistance and the invest for growth

grant scheme. Those offers are usually paid in instalments as projects are implemented. Therefore, disbursement will happen only when agreed capital expenditure and job targets have been achieved.

Christine Grahame: I thank the minister for her answer.

As the minister is aware, I raised the delayed payment of the first tranche of RSA to Signum Circuits at Selkirk exactly two weeks ago. Mr Guido Crollo, the owner of the company, told me that, following my intervention, he secured a meeting a week later with the minister's civil servants. The bottleneck has been cleared and I understand that the first payment should be made in the coming weeks. For that, I thank her.

Will the minister now ensure that the second and final payment will be made before the end of this year so that a core manufacturing company that currently employs 270 Bordersers survives and indeed thrives? After the disgrace of Viasystems, that is the least the Borders is due.

Ms Alexander: A number of members, including constituency members in the Borders, have been in touch with me about Signum Circuits. I want to record in the *Official Report* that we have considered how the grant offer can be revised in the light of the fact that the company may need access to grant despite recent redundancies. That is the sort of flexibility that my department is willing to show. However, the offer must be commensurate with the rigour that all parties—and some of the Opposition parties in particular—wish to show in the disbursement of moneys to companies whose commercial prospects will be matters of interest to us in the future.

Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD): How many companies have been offered support under the scheme? How much capital investment will be attracted by the RSA that is offered? Does the minister agree that objective 2 funding and the granting of assisted area status in general gives the Borders a real opportunity to diversify its economy? Will she offer her full support to the new ways strategy for the recovery of the Borders economy?

Ms Alexander: The new ways strategy is excellent, as is the embryonic way in which the local economic forum is working as a model for the rest of Scotland. The designation of assisted area status—which the Executive argued for—has attracted £4 million in RSA offers. More significant is the fact that it is expected to leverage in in excess of £20 million to the Borders economy and safeguard in excess of 940 jobs in the period ahead. I hope that all members will welcome that.

Tourism (Information Centres)

11. Mr Keith Raffan (Mid Scotland and Fife) (LD): To ask the Scottish Executive what action it is taking to ensure that the current tourist information network is maintained and that there is not a reduction in the number of months that information centres are open. (S10-3510)

The Deputy Minister for Enterprise and Lifelong Learning and Gaelic (Mr Alasdair Morrison): As Mr Raffan will appreciate, provision of tourist information centres is an operational matter for the area tourist boards.

Mr Raffan: Is the minister aware that the proposed winter closure of several tourist information centres, such as that at a gateway location in Kinross, is causing widespread confusion and concern as it seems to contradict the Executive's message that Scotland is open for business following the foot-and-mouth outbreak? Does he realise that many tourism facilities in Kinross-shire—such as the RSPB's Vane Farm nature reserve—depend on winter visitors? If he can agree to a huge salary for a chief executive and intervene two days later to terminate that appointment, he can intervene—if he has the will and if he wants to—to keep the Kinross tourist information centre open. Its superb staff have been described as absolutely crucial to the local economy.

Mr Morrison: I do not doubt the quality of the staff in that tourist information centre, but the micromanagement of individual tourist information centres is not and should not be the responsibility of ministers.

We have intervened over the past two years and are continuing to intervene. We have increased the funding to tourism from over £19 million to almost £30 million this year.

Child Protection

12. Mr Michael McMahon (Hamilton North and Bellshill) (Lab): To ask the Scottish Executive when it will announce the outcome of its consultation on the establishment of an index of adults unsuitable to work with children and its proposals for any legislation on this issue. (S10-3521)

The Minister for Education, Europe and External Affairs (Mr Jack McConnell): "Protecting Children: Securing their Safety—A Pre-legislative Consultation Paper on the Establishment of an Index of Adults Unsuitable to Work with Children" was published in July 2000. The consultation period finished on 27 October 2000. There was general support for the paper's proposals. I am finalising our detailed response and I hope to make an announcement very soon.

Mr McMahon: Has the minister considered whether anyone whom it is deemed necessary to place on such an index, so preventing them from working with vulnerable children, should also be prevented from working with vulnerable adults, such as those with mental health problems?

Mr McConnell: There are a number of complex issues that relate to that subject, which came up during the consultation. This is an important issue that needs to be handled sensitively. It is likely to be one of the areas on which we seek further consultation responses when we publish our more detailed proposals.

The possibility of one list for those who are unable to work with children or vulnerable adults implies a link. That link may be clear in cases of neglect and some forms of abuse, but it is not necessarily the same for cases of sexual abuse. We therefore need to think such links and associations through carefully before we legislate on the matter.

Statins

13. Lord James Douglas-Hamilton (Lothians) (Con): To ask the Scottish Executive whether statins, the cholesterol-lowering drugs, are not being made available to patients due to a lack of resources and, if so, whether it will take measures to rectify the situation. (S10-3502)

The Minister for Health and Community Care (Susan Deacon): Doctors prescribe statins on the basis of their assessment of the needs of each patient, taking into account the evidence-based guidelines produced by independent expert clinicians. Since 1992, the number of prescriptions for statins has risen twentyfold, to more than 1 million per year.

Lord James Douglas-Hamilton: Is the minister aware of serious allegations that patients suffering from heart disease have died as a result of a lack of availability of those particular drugs, or a lack of access to them? Will she please look into this as a matter of great urgency? It is extremely important that the high incidence of heart disease in Scotland should be speedily arrested.

Susan Deacon: I am certainly aware of the allegations, which were made by one clinician in the press last week. I would like to take this opportunity to correct some of the assertions. It was claimed that official guidelines deny the use of those cholesterol-lowering drugs. As I have already said, the guidelines in question are produced by multidisciplinary groups of expert clinicians. They are not Government guidelines. They are prepared to improve standards in the treatment of various conditions and have been recognised worldwide as being an effective way of setting standards. They are based firmly on the

available evidence. The twentyfold increase over the past 10 years or so is testament to the fact that, where appropriate, clinicians prescribe them if that is the best way to treat a patient.

Exchange of Information (Norway)

14. Ms Margo MacDonald (Lothians) (SNP): To ask the Scottish Executive whether it will instigate an exchange of information with the Norwegian Government on matters of common interest. (S1O-3519)

The Deputy Minister for Education, Europe and External Affairs (Nicol Stephen): We already have very constructive links with all the Nordic countries, including Norway. We will take every opportunity to develop those links further.

Ms MacDonald: I am very glad that the minister has already established links. If he has made friends in the Norwegian Government, he may agree that it would be sensible to find out why, with wildly fluctuating oil prices, the Norwegians have an oil-based economy that delivers much better economic standards, welfare benefits, internal sea transport—I will not go on with the list—than we do although they have much in common with us and very much the same basic resources. If he will not try to find that out, is it because hearing the answers would force him to rethink his unionist position?

Nicol Stephen: If resources are to be put into a long-term fund—and I accept that that is a reasonable argument for any political party to put forward, although it is quite clearly outside the powers of this Parliament—the SNP must have a credible explanation of how core services, such as education and health, can continue to be funded. We cannot—as the SNP continually does—count the same money twice. We need a fair discussion on factual information, not a fictional debate on fantasy figures.

Robin Harper (Lothians) (Green): Given that the Norwegians are developing more sustainable salmon fish farming and sea cage fish farming; given that, in Wester Ross, according to a report from the World Wide Fund for Nature today, salmon are about to become extinct in the rivers Corrie, Shieldag, Kishorn, Atadale, Strontian and Carnoch; given that the Scottish Executive may have representatives—[MEMBERS: “Question!”] The question is coming. Given that the Scottish Executive may have representatives at the North Atlantic Salmon Conservation Organisation, will the Executive be pursuing common policies with the Norwegian Government for the conservation of salmon?

Nicol Stephen: The first and most important thing to say is that we have many lessons to learn as a nation from other countries—not only from

Norway, but from other Scandinavian countries and from other countries both inside and outside the European Union. If we are narrow-minded and insular, we will have failed the test of the establishment of this new Parliament.

Of course we want to consider a new strategy for fish farming. A key element of that will be to consider the practices in other countries—in Scandinavia, and in Norway in particular. We want to go forward and learn lessons from other countries. Excellent environmental practice is a key part of that.

Mr Andy Kerr (East Kilbride) (Lab): Does the minister agree that Scotland is one of the remaining strongholds for Atlantic salmon? Indeed, the WWF report says that 63 per cent of salmon-bearing rivers in Scotland are healthy. Our water and rivers are in good condition and we must take care of them, because they provide a good environment for salmon and we are one of the four major nations in the world that provide a good base for salmon to develop.

The Presiding Officer: I did not hear a question, but would you like to answer, minister?

Nicol Stephen: I agree with that. Our future, not only in relation to the salmon industry but in relation to all our fishing and food, has to be based on high environmental standards and high quality. We are fortunate to have an excellent reputation in that area already, but I hope that we can enhance it further in the coming years.

Mr Duncan McNeil (Greenock and Inverclyde) (Lab): Given Norway's sky-high taxes and beer at £4 a pint—[*Interruption.*] If members give it out they have to take it as well. Given those points, does the minister believe that Norway offers an excellent blueprint for an independent Scotland?

Nicol Stephen: I do not think that that requires an answer. Perhaps we should draw a line under this discussion.

Science Strategy

15. Brian Adam (North-East Scotland) (SNP): To ask the Scottish Executive when the science strategy for Scotland will be published. (S1O-3518)

The Minister for Enterprise and Lifelong Learning (Ms Wendy Alexander): I intend to publish the science strategy during the summer. In the light of the exchange that we have just heard, Mr Adam will be aware that Opposition parties were justifiably anxious that the Executive should show appropriate sensitivity during a UK general election period with respect to major new announcements.

Brian Adam: I thank the minister for that reply. I was not going to attack her for failing to publish

the strategy; I merely wish to ascertain whether she will provide the appropriate resources to implement it when it is published and what steps she intends to take to recruit and retain the high-quality scientists we have, particularly in higher and further education.

Ms Alexander: As Mr Adam will be aware, we announced that we intend to create a new science advisory committee. He will appreciate that we are also considering the role and status of such a committee in the context of the review of non-departmental public bodies that is currently under way. Science is funded on a UK basis. As I meet members of the scientific community around Scotland, particularly in the run-up to this UK general election, their overriding preoccupation appears to be that they should not be cut off from the above-population-share of resources that they currently secure from the UK research councils, which were so generously increased recently. They are also somewhat perturbed by the risk that Scottish politics would be dominated by those whose sole *raison d'être* would be to cut them off from their counterparts and larger-scale funding in the rest of the UK.

Foot-and-mouth Disease

16. David Mundell (South of Scotland) (Con): To ask the Scottish Executive how the £5 million additional funding announced on 28 March 2001 for enterprise networks to help alleviate the immediate impact of the foot-and-mouth disease outbreak has been spent. (S1O-3507)

The Minister for Enterprise and Lifelong Learning (Ms Wendy Alexander): The detail of how the cash will be spent is an operational matter for Scottish Enterprise and Highlands and Islands Enterprise. I am happy to ask both Scottish Enterprise and Highlands and Islands Enterprise to write to the member with further details.

David Mundell: I note that response, but does the minister share my concern that it appears that none of the money, nor the additional £5 million that Scottish Enterprise allocated to the Dumfries and Galloway part of its network, has made its way directly to business? Does she share my disappointment that it took the personal intervention of Robert Crawford to clarify the loan terms for businesses in Dumfries and Galloway? Is it not about time we got some cash to businesses that are crying out for their survival?

Ms Alexander: I am happy to confirm that on Monday 21 May the terms and conditions for the spending of the money were made available. The initiatives are available now to businesses in Dumfries and Galloway and we are keen for them to apply. Members in all parties will be pleased to know that Scottish Enterprise has gone down the route of interest-free financing through a loan

scheme and an interest relief fund, which is what many members from all sides asked it to do.

The Presiding Officer: Question 17 has been withdrawn.

Public Finances

18. Dennis Canavan (Falkirk West): To ask the Scottish Executive what measures it is taking to increase transparency and accountability in relation to public finances. (S1O-3517)

The Minister for Finance and Local Government (Angus MacKay): We publish and widely circulate the annual expenditure report and our draft budget proposals, which set out the broad financial direction of the Executive and our proposed budget for the following year. We also undertake budget roadshows to explain our thinking and hear people's views.

Dennis Canavan: During the current debate about the Barnett formula and the possibility of fiscal autonomy, would it be in everyone's interests for the Scottish Executive and the UK Government to be more forthcoming about the exact amount of revenue that is raised in Scotland and the exact amount of public expenditure that is spent in Scotland, so that the people of Scotland can make up their own minds about whether the Scottish Parliament should continue to be virtually the only Parliament in the world that depends completely on another Parliament for every penny it spends?

Angus MacKay: I am somewhat surprised to hear Dennis Canavan ask that question. He should know that such a survey exists—it is called "Government Expenditure and Revenue in Scotland" and is published annually by civil servants in the Scottish Executive, taking account of a wide range of data that are available from several reputable sources, including the Treasury. The most recent GERS publication shows that Scotland has a structural deficit of £5 billion with the rest of the UK. Even taking into account oil, Scotland still has a structural deficit that exceeds £2 billion.

I will bring together one or two points that were made in this and earlier questions. The fact of the matter is that the SNP—towards which Dennis Canavan seems to be moving at a rather alarming rate of knots—consistently fails to explain that the Scottish structural deficit would not be met by its proposals, that its public service trusts would not work and that every other part of its policy programme falls apart on examination for the simple reason that it cannot pay for the promises it makes.

The Presiding Officer: We are two minutes late starting First Minister's questions, so I will add two minutes later.

First Minister's Question Time

SCOTTISH EXECUTIVE

Cabinet (Meetings)

1. Mr John Swinney (North Tayside) (SNP): To ask the First Minister what issues will be discussed at the next meeting of the Scottish Executive's Cabinet. (S1F-01110)

The First Minister (Henry McLeish): The Cabinet will next meet on 5 June, when it will discuss issues of importance to the Scottish people.

Mr Swinney: I am sure that the First Minister agrees that it is important that politicians deliver on their promises to the public. I am holding a Labour party document that says that the Government is committed to bringing

"waiting lists down by at least 10,000 by the next general election".

Waiting list figures were published this morning and show that Labour has failed to deliver on that election promise. Given that Labour has failed to deliver on that key pledge from the previous election, how on earth can anyone take seriously what Labour has to offer at this election?

The First Minister: It would be useful if John Swinney could distinguish a party document from a manifesto commitment. However, I am delighted that we are talking about waiting lists, because the whole Parliament and the whole of Scotland will want to celebrate the fact that waiting lists reduced by 3,293 in the period from 31 December 2000.

Waiting list numbers are falling. Members have said often enough that much more has to be done. The figures are falling. More than half of Scots never join a waiting list. Eight in 10 Scots are treated within three months and, of course, the information was also published today that no patient has waited more than 12 months for in-patient and day case treatment up to 31 March 2001.

As it is a manifesto commitment, we will fulfil the promise to reduce by April 2002 the waiting list figure below that of March 1999. That is a firm commitment. Let us hear the nationalists welcome the fall in those figures.

Mr Swinney: I am just reading out what the Labour party puts through the doors of people in Scotland. The document says that waiting lists will be

"down by at least 10,000 by the next general election".

Unless I have missed something this afternoon, a general election is taking place next Thursday,

and the figures are not falling fast enough.

All that I am interested in is where accountability lies. In the past two years, waiting lists have not fallen, but risen by 12,000. Perhaps that is the fault of the Liberal Democrats, entering Government and making the position worse. Who is responsible? Is it Tony Blair, who made the wrong promise in the first place? Is it the Liberal Democrats, for putting up the numbers in the past two years, or is it the First Minister for failing to deliver on his election promises?

The First Minister: This is the fourth question time in a row that John Swinney has failed to deliver anything in a discussion about health. When we look at the meagre contribution that his party is making to the debate on the NHS during this election campaign, the nationalists will have to acknowledge that we are on target to meet the pledges and promises that we made. We have seen a significant reduction of nearly 4 per cent in the three months to 31 March. That figure is significant.

Let us also look at the promise that has resulted in 120,000 more operations now than in 1997: in heart bypass, in angioplasty, hip replacement and knee joint replacements. We are working with the NHS to provide a great deal more. Let us talk about the biggest building programme that Scotland has ever seen. I hear Tory members saying "Ours". The Scottish people will take a great deal of convincing when they hear the Tories say "Ours" about anything that happened under the Tories in the national health service.

As the nationalists have raised the subject, let us reflect on the fact that, when we look at doctors and nurses, we can see positive achievements. There has been a £1.8 billion increase in the period 1999-2000 to 2003-04. People will see that Labour is delivering, but that all that the nationalists have are false promises. People do not know whether those promises will be delivered in this Parliament or in some far-off bit of the future where independence might be a distant hope.

Mr Swinney: The First Minister says that we are making progress. For him to deliver on his election promise, 1,000 people will have to be taken off the waiting lists every day for the next seven days. Making progress does not sound to me like the reality, when in-patient waiting times are up, out-patient waiting times are up, inequalities are up and the only thing that is down are operations, which are down by 30,000.

Is not it time that we had a Government that stopped dealing in rhetoric and started to deal in reality? Is not it time that we had a Government that delivered, and did not fail, on its promises? Is not it time that we had a Government that stands for Scotland?

The First Minister: That was as pathetic as it was predictable. The great thing about the SNP asking questions about health is that it is selective about what it wants to throw in. The SNP's economic policies would be ruinous for Scotland. We would see public investment slump absolutely.

Let us get back to some of the key issues, including the £0.5 billion that is being invested in the biggest hospital building programme in the history of the national health service. We are delivering record investment to transform the NHS—over £400 million more this year alone.

Tommy Sheridan (Glasgow) (SSP): The First Minister has said that already.

The First Minister: I hear a member say that I have said that already, but facts are important in an election campaign.

The people of Scotland will see that we are delivering on our NHS commitments. The people of Scotland will treat the SNP with utter contempt, as it has nothing more to offer than a debate about fiscal autonomy and Barnett. The SNP has the ability to talk Scotland down at every possible occasion.

Prime Minister (Meetings)

2. David McLetchie (Lothians) (Con): To ask the First Minister when he will next meet the Prime Minister and, depending on the timing, what issues he plans to raise with Mr Hague or Mr Blair? (S1F-01107)

The First Minister (Henry McLeish): It is always useful to distinguish between optimism and sheer fantasy. There is a part of my mind that can indulge itself in fantasies at times, but it does not remotely include the prospect of the leader of the Conservative party of the United Kingdom going to Downing Street.

I last met the Prime Minister on 25 May. We have no immediate plans to meet.

David McLetchie: I am sure that, when the First Minister meets the Prime Minister, he will fill him in—metaphorically, of course—on his plans to host the European football championships in 2008 in Scotland. As someone who shares the First Minister's interest in football, I think that all of us in the Parliament would love to see the championship come to Scotland, but I have some concerns about the cost to the public purse of going it alone.

When I see this morning's newspapers quoting figures of £40 million for building two new stadiums, I think immediately of another publicly funded project that started off at £40 million and then multiplied sixfold.

Will the First Minister continue to examine the

option of a joint bid for the championships with the Republic of Ireland or Wales—as he indicated to my colleague Brian Monteith at last week's question time—or have the First Minister and the Scottish Executive now ruled that out?

The First Minister: David McLetchie is often inclined to start off by soaring to the mountain tops but then to end, pretty quickly, on the foothills.

We are talking about hosting one of the biggest sporting events that Scotland will ever have seen—if we can put together a bid. The European football championships are the second biggest event in football and come second only to the world cup.

It is important to recognise, as we said yesterday, that although we can all indulge in passion, and we can all indulge in pride and ambition for our country, a fundamental hard-headed approach is required. We need to look at the costs that would be involved. For any potential public investment, we must look not only at what is required for the tournament but—as the taxpayer and the people of Scotland require—at the significant sporting benefits we might get out of it in the long term.

At this stage, I can say that no option has been ruled out in looking forward to preparing a bid. I hope that we get the Parliament's support—which I would welcome—to move forward.

Last week, I gave the commitment that if we proceeded to the next stage, which is what we are now doing, I would want to inform the party leaders at an early stage about what was happening.

David McLetchie: I thank the First Minister for that answer. I was a little baffled by his reference to mountain tops and foothills. His Executive's record on issues such as Sutherland and fishing compensation exemplifies why when it comes to the grand old duke of York—marching people up to the top of the hill and marching them down again—the First Minister is the past master.

I am pleased that the First Minister has not ruled out all the options, because there should be a practical way of bringing the tournament to Scotland. It would be a major boost to our tourist industry, sport and many other businesses.

When the Taoiseach visits Scotland in two weeks' time, will the First Minister raise with him the possibility of a joint bid? Will the First Minister encourage the Scottish Football Association to meet the Football Association of Ireland to discuss the feasibility of such a bid? Will he make that a condition of public funding for the project whenever a final decision is taken?

The First Minister: No option has been ruled out. At the press briefing yesterday, it was

highlighted that the Welsh and the Irish had expressed interest in a joint bid. The SFA has had some very tentative discussions with the Irish football authorities, but at this stage no decision has been made. I take on board the fact that we are talking about significant sums of public investment. We are also talking about the possibility of ensuring that we can get support for a particular application if we put in a bid.

The bid for the tournament is an on-going issue and we will keep the Parliament fully involved and fully informed about what is happening. If we can pull it off, it will be an incredible development for Scotland. In the meantime, we should be hard-headed and consider every conceivable funding possibility.

Karen Gillon (Clydesdale) (Lab): The First Minister acknowledged that there would be a role for the Education, Culture and Sport Committee in taking forward the 2008 bid, particularly given our experience in the Hampden inquiry. Will he put on record his commitment to involve the committee in any subsequent discussions, particularly in ensuring that any new stadiums that are built involve private finance initiatives, and that they include substantial community development facilities and enhance grass-roots sport development at the same time?

The First Minister: The comments yesterday were designed to ensure that we had an inclusive approach to the tournament in 2008. When I talk about involving the Parliament, I include the Education, Culture and Sport Committee, which Karen Gillon convenes, because clearly it has an interest in the subject.

The event is a challenge not just for the Scottish Executive or the SFA, but for the whole of Scotland. That is why funding is crucial. If Scotland wants to play on the big stage of world sport, it must raise its game. That is why I look to the corporate sector and the football clubs in Scotland, the SFA and local authorities, for the team effort that will be necessary to ensure that, if we submit a bid, it has the support of the whole of Scotland. The Parliament and its Education, Culture and Sport Committee will be kept informed and involved in those developments.

National Health Service

3. Mike Watson (Glasgow Cathcart) (Lab): To ask the First Minister what progress is being made towards improving the service delivered by the NHS to patients. (S1F-01113)

The First Minister (Henry McLeish): I referred earlier to the improvements that are being made. The figures that were published today show further sustained improvement in waiting in the NHS. Waiting lists on 31 March 2001 are 3,293 lower

than at December 2000, and no patient waited longer than 12 months for treatment. The Executive continues to work with the NHS to deliver sustained improvement for patients through a wide-reaching programme of investment and reform.

Mike Watson: I thank the First Minister for that answer and welcome the figures that he quoted.

I am sure that the First Minister would agree that one of the ways in which the health service can be improved is by building new hospitals. He will be aware of the urgent need for a new acute services hospital on the south side of Glasgow—the only major population centre in Scotland that did not have a new-build hospital throughout the 20th century. Will the First Minister acknowledge that when the decision is made on where that new hospital is to be sited, it will not be made simply on the basis of the cheapest option, but will take full account of the need for accessibility to all the patients in the area that it is designed to serve?

The First Minister: I endorse Mike Watson's points on the on-going debate. Obviously, the review is throwing up some difficult issues in Glasgow; we agree with Mike Watson that those issues must be examined thoroughly and that all the relevant factors must be considered. It is important that Greater Glasgow Health Board considers and consults on a full range of options. The genuine involvement of the public and interested organisations is vital.

That answer is set against the huge building programme in which the Executive is involved. It is important to recognise the scale of that programme. We seek not only to improve the quality of the service with our doctors and nurses—the whole range of staff members—but to ensure that we have the most modern facilities that we can provide. That will be the situation in Glasgow, as it is throughout Scotland.

Ms Margo MacDonald (Lothians) (SNP): I do not expect the First Minister to have an excuse to hand for every hospital in Scotland that is underperforming according to the standards that were promised at the start of the Parliament. However, I draw to his attention the current seven weeks' waiting time for women who are referred to the Western general in Edinburgh for breast examination. I invite him to agree that there is no way that we will ever make up the shortages in the specialities working in the oncology unit involved unless we have control of all Scotland's taxation and spending and call it full fiscal autonomy for the Parliament.

The First Minister: I was just about to say how elegant Margo MacDonald looked in her colours today, but after the last part of her question, I decided I might not want to. [*Interruption.*] Oh well,

I will stick by the compliment that I had planned to give her.

On behalf of the people of Scotland, let us ignore the last part of Margo MacDonald's remarks. The issue is important, but not in the context of the nonsense that the SNP speaks about economic policy. Cancer is a top priority for the Executive and the NHS in Scotland. We acknowledge that breast cancer is the most common cancer in Scots women and we know that throughout Scotland, except in the Lothians, waiting times for urgent out-patient referrals range from 48 hours to two weeks. It is the Executive's intention to move on improving the quality of the service, not only in Lothian but throughout Scotland. However, to do that we need sound public investment—that is what we get from the partnership with the United Kingdom. That will continue and we will ensure that cancer services improve.

Ben Wallace (North-East Scotland) (Con): With relation to the First Minister's commitments to NHS service, perhaps he would like to comment on his manifesto 1997 pledges on health. We still have no NHS Direct, we have no public health minister, we have rising waiting lists, not shorter, we have longer cancer care waiting lists, not shorter and we have mixed-sex wards. The First Minister comments on the figures from March 31. [MEMBERS: "Get on with it."] I am coming to it—members might not like the truth, but it is coming. On March 31, the waiting list figures were dropping. Perhaps the First Minister might like to comment from today's figure of the actual waiting list, which is a rise on March 31 on the upward spiral. Perhaps he would like to admit that he has failed on all his commitments to the NHS. Rather than trying to blame the Tory hospital building plans, he should admit that he has failed.

The First Minister: I think that Dorothy-Grace Elder may have found in Ben Wallace a target for the Plain English Campaign. I am not sure what the point of his question was, but let me make a stab at answering what I think it was.

We have just said today that waiting lists are coming down. The figures are real and have been published, and nobody can argue with them. We endured 18 years of indifference to the NHS from the Conservative party in the United Kingdom. The Conservatives have the audacity to question our progress and our record so far, which is very formidable indeed, as I have pointed out. We should recognise that sound public investment will ensure that there will be significant improvements in every part of the NHS. A tremendous amount of work is being done on NHS 24 in Scotland, and the service will be launched in due course.

Let us talk up the health service for a change. Let us stop listening to the squeals of the

nationalists and the Tories. The net effect of their policies is to increase taxes and to cut public investment. Labour wants investment in the NHS, and that is what will happen.

Elderly People (Care)

4. Nicola Sturgeon (Glasgow) (SNP): To ask the First Minister what it will cost annually to make personal care free for all elderly people. (S1F-01115)

The First Minister (Henry McLeish): The care development group, chaired by Malcolm Chisholm, will bring forward proposals for the implementation of free personal care along with an analysis of the costs by the end of August.

Nicola Sturgeon: I am glad that the First Minister said that, because that is what I thought was the case: that the care development group had been set up not as a delaying tactic, but to analyse the cost. However, lo and behold, a press release issued by the Scottish Labour party on 18 May tells us that the cost of free personal care is actually £80 million a year. If the Scottish Labour party can put a cost on free personal care, would it not be a good idea to share that information with the Scottish Executive, so that it can stop prevaricating on the issue and get on with the job of delivering free personal care for all elderly people now?

The First Minister: Once again, the SNP is playing politics with an important issue for older people in Scotland. [MEMBERS: "That is not true."] It is absolutely true.

Mr Swinney: Nonsense!

The First Minister: John Swinney may say that it is nonsense, but let me put on record the fact that the Executive is committed to the delivery of free personal care for the elderly in Scotland. Nicola Sturgeon is raising every red herring that she can find to try to disguise the fact that we have a commitment and the SNP has not. Let us also make it quite clear that the personal care development group is considering how we can take forward free personal care and the costs involved. The best commitment that I can make today is to say that, by April 2002, we will start to implement free personal care in Scotland. It could not be clearer, so let us clear up any doubts. The SNP smokescreen has evaporated. We are committed to free personal care for our older people. [Applause.]

The Presiding Officer (Sir David Steel): I call Margaret Smith.

Mrs Margaret Smith (Edinburgh West) (LD): Is it me now?

The Presiding Officer: Yes.

Mrs Smith: I am sorry, Presiding Officer. There was such a racket going on.

Does the First Minister agree that the Executive's commitment to community care cannot be faulted by the Opposition parties? We have said time and again that we are committed to free personal care and to community care in general. In fact, we have delivered three times what the SNP promised in its manifesto for the Scottish parliamentary elections two years ago. Will the First Minister tell us exactly what the current timetable is for the care development group to present its plans for free personal care for the elderly? When will Malcolm Chisholm report to the chamber, what will the consultation period be, and when will free personal care be delivered for the people of Scotland?

The First Minister: As has been said, the development group will report to the Executive by the end of August. We will then want to move to an implementation of the policy in the spring of 2002. Again, it is a question of sound public investment. We believe that older people are important enough to have that public investment. The nationalists would leave it to the lottery of some oil projection in the future to provide that help. We are not having that. We will stick by our older population in Scotland.

The Presiding Officer: We are well past the time for question time. We will move to the next item of business.

Points of Order

15:35

Dennis Canavan (Falkirk West): I would like to raise a point of order, Presiding Officer, of which I have given you advance notice.

It was reported in yesterday's press that the First Minister had signed up on Monday to a deal, with his counterparts in other European Union countries with devolved Governments, on participation in European Union decision making. I understand that the text of the agreement was not released by the Scottish Executive, but sources in Brussels produced the statement that, with the signing of a political declaration on 28 May 2001, the constitutional regions of Bavaria, Catalonia, North Rhine Westphalia, Salzburg, Scotland, Wallonia and Flanders

"wish to contribute to the debate on the future of the European Union".

No doubt that is a worthy objective, and the political declaration lists five good key points on behalf of the devolved Administrations. [MEMBERS: "What is the point of order?"] The point of order is this. According to a report in *The Herald* yesterday, the First Minister's spokesperson

"stressed that the first minister was acting on behalf of the parliament"

The First Minister's spokesperson has since told me that he said no such thing, but it would appear that the First Minister may have acted in breach of the protocol that was agreed between the Scottish Executive and the committees of this Parliament. Paragraph 16 of the protocol states:

"The Executive will keep Committees informed about any announcements, News Releases, reports and other activity relevant to the Committee's remit."

In this case, the Executive appears to have failed to inform Parliament or the European Committee of this Parliament. I ask the Presiding Officer to give a ruling on the matter, to ensure that the Executive abides by the agreed protocol and does not treat this Parliament with contempt.

The Presiding Officer (Sir David Steel): I am grateful to Dennis Canavan for his courtesy in giving me notice of the point of order. I have not been able to resolve the matter in the short time that I have had to consider it. If Dennis Canavan leaves it with me, I will investigate and report back.

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

The Presiding Officer: Is it the same point of order?

Ms MacDonald: No.

I apologise for being unable to give you notice, Presiding Officer, but the point of order to which I refer arose during question time. Both the First Minister and the Minister for Finance and Local Government discussed and referred to possible full fiscal autonomy for this Parliament. I had a question to that effect, asking the Minister for Finance and Local Government to instigate a proper study and inquiry into full fiscal autonomy. My question was rejected; I was informed that it was outwith the scope of this Parliament.

If ministers can refer to and discuss full fiscal autonomy, is it outwith the scope of the Parliament to discuss the subject?

The Presiding Officer: It is always possible for discussion to take place on reserved matters in this Parliament. What is not possible is to ask questions of ministers on reserved matters. That is the distinction between those two situations.

Regulation of Care (Scotland) Bill: Stage 3

The Presiding Officer (Sir David Steel): We now come to motion S1M-1965, in the name of Susan Deacon, which seeks agreement that the Regulation of Care (Scotland) Bill be passed.

15:38

The Minister for Health and Community Care (Susan Deacon): I am very pleased to be speaking today at the final stage of the Regulation of Care (Scotland) Bill. The past five months in Parliament have been the culmination of work that has been under way since devolution. The bill will be a major achievement of our Scottish Parliament. It will deliver a better experience of care services for thousands of Scottish people every day. The new system of care regulation will help us move to better services—services that people deserve.

Debate has often focused on care homes but we should not forget that the framework introduced by the bill will cover a wide range of services, including home care, independent health care and housing support services together with a range of services for children, including childminders and pre-school education. Those crucial services impact on every community and every family throughout the land. Regulation of the work force will give people using care services more confidence in those delivering them. Importantly, the bill will do much to raise the status of often undervalued workers in the care sector.

As Malcolm Chisholm indicated this morning on a number of occasions, the bill, significant though it is, cannot and should not be seen in isolation. It links to many other crucial and on-going Executive initiatives such as the care development group's work on long-time care; work to promote the status and to recognise the needs of older people and people with disabilities; and work to promote the availability of better child care. That said, the bill represents a further significant building-block in the range of work that we have undertaken since the Parliament's inception to improve care and care services for the people of Scotland.

I want to take this opportunity to pay tribute to all those who have been involved in the development of the bill over many months. In particular, I thank the Health and Community Care Committee for its contribution. Stage 1 involved a considerable evidence-gathering exercise, and stage 2 led to thoughtful amendments and a very productive debate. I again pay tribute to members of the Health and Community Care Committee for their contributions to this morning's debate. The whole

Parliament's deep concern about and interest in this area have been seen. I believe that we have a better bill as a result of the committee sessions and the parliamentary debate. Many of the amendments discussed this morning are a testimony to the efficacy of our parliamentary process.

The bill is also better because of the consultation process. I welcomed positive comments on that aspect during the stage 1 debate, and the process has continued. I want to thank the many hundreds of individuals and organisations that have contributed, particularly those involved in our reference group and everyone involved with the national care standards committee. I know that Malcolm Chisholm found it extremely helpful to have consultation meetings in March and April with the main stakeholders—users and carers, staff representatives, the voluntary sector, the private sector, local authorities and health boards, and educational interests. That process of discussion and involvement is the right one to allow us to make progress in this area, and is how we will continue to work as we proceed.

As a result of discussions in the lead-up to today's debate and in the debate itself, the bill includes general principles that put the user of care services firmly at the centre. The regulatory framework covers child care agencies, including those that supply nannies and sitters. We have agreed that there should be at least two inspections of residential services a year, at least one of which should be unannounced. Furthermore, we have provided for an integrated inspection regime with Her Majesty's inspectors of schools, and have strengthened the consultation provisions.

We had two very good debates on finance. On the issue of fees, I repeat Malcolm Chisholm's assurances that we will consider all the relevant factors and views before deciding the level that should be set for each care service. Although we want the commission to be self-financing, we do not want that to cut across objectives in other areas, including the need for a flourishing care home sector.

This morning we also had a very lively debate on commissioning. We are all agreed that the present way in which local authorities set fees for the services they purchase from the private and voluntary sector is not always as fair or as transparent as it might be. There are real issues to be resolved and, as Malcolm Chisholm made clear, both ministers and the Convention of Scottish Local Authorities are aware of the urgent need to address them. However, the bill is not the way to do that; the process that we have set up with COSLA and providers is, as it is aimed at

addressing the immediate difficulties and finding a longer-term and sustainable solution. Furthermore, the work of the care development group, the implementation of the joint future group's recommendations and our wider programme of work on the development of community care will enable us to stay on the road of continuous improvement in community care and the development and delivery of care services.

We will continue to face challenges. Our next challenge will be preparing for the start of the operations of the Scottish social services council in October and the Scottish commission for the regulation of care in April 2002. I am sure that Parliament will follow with interest the work of those bodies and will look forward to seeing their first annual reports.

This bill is a major step forward in making life better for the thousands of people who use care services in Scotland every day. Although much remains to be done, the bill is a significant milestone in developing the kind of care system of which we can all be proud and in which we can all have confidence.

I move,

That the Parliament agrees that the Regulation of Care (Scotland) Bill be passed.

15:46

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

I feel a little sorry for the Deputy Minister for Health and Community Care, who has done all the hard work through the bill process, only to have to stand aside at the last minute so that the Minister for Health and Community Care can take all the glory. That is a shame. However, I pay tribute to Malcolm Chisholm for the work that he has put into this bill. I also pay tribute to the clerks of the Health and Community Care Committee, to my fellow members of the committee and to all those who gave evidence during the bill process.

On behalf of the SNP, I welcome the imminent passing of the Regulation of Care (Scotland) Bill. The bill will result in major improvements in our care system, through the constant and effective regulation of care and the people providing it. For too long we have read and heard about appalling cases in which the care system has failed to provide a proper standard of care—a standard that we would expect for our relatives and for ourselves.

The vast majority of people working in the care system do a marvellous job. Through an effective system of regulating the work force, which this bill will provide, we can ensure that the 500,000 service users in Scotland receive a high-quality service. The public needs to have confidence in the care system. When standards are not met,

people need to feel able to bring that to the attention of the Scottish social services council or the Scottish commission for the regulation of care, so that action can be taken to rectify the situation.

The bill has been strengthened by the many amendments that have been passed at stages 2 and 3, in particular the recognition of the requirement for two inspections of care homes and the inclusion of fostering and adoption services in the bill. The focus on extending consultation and information provision for users and carers is also to be welcomed.

My main regret is that the Executive did not listen to the care providers and interest groups when they raised concerns about fees and the impact that they will have on service provision. At this point, all we can say is that time will tell who was right on that issue. I was also concerned by the removal from the bill earlier today of the important safeguard for voluntary organisations. I believe that that will cause the voluntary sector immense problems. Again, time will tell.

On a happier note, the bill provides us with an opportunity to improve the delivery and monitoring of care for some of the most vulnerable people in our society. We all support that aim. The Health and Community Care Committee invested much time and energy in hearing a great deal of evidence, so that the bill could be improved. There has been much agreement across the parties on the content of the bill, and it is all the better for that.

I am proud to have been associated with helping to improve the care system in Scotland through the passing of this bill. I look forward to the real changes and benefits that it will bring to the people of Scotland.

15:49

Mary Scanlon (Highlands and Islands) (Con):

Like my colleagues, I would like to thank the clerks to the Health and Community Care Committee, along with the other members of the committee.

There is no doubt that this bill will raise standards of care. It will ensure consistent standards of care and will help to bring dignity and respect to people dependent on care. The progress of the bill at stage 2 was an example of committee working at its best. It was enhanced by the minister's willingness to acknowledge concerns that were raised by the committee and by individual members of the committee, irrespective of their party loyalties, and his willingness to take on board the evidence and submissions from the many organisations that gave evidence to the committee.

The Scottish Conservative party welcomes the

bill, which will provide a national system for the regulation of care, early education services and the social services work force. We also welcome the minister's and the Executive's acceptance of the many amendments, suggestions and points of clarification that have strengthened the bill. We endorse the fact that the provision of care by local authorities will be registered and inspected to the same level as provision in the private and voluntary sector, and we welcome the independence of the Scottish commission for the regulation of care.

Like my colleagues in other parties, I have concerns over the level of funding and its potential impact on care services: not only a potential reduction in care services, but the harm that it may do to the diversity and subsequent choice of care services. I remain concerned that there is not a system for the scrutiny of contracts and referrals from local government, but I look forward to ensuring that that will be addressed in the forthcoming bills that were mentioned by the minister this morning. I understand that that issue may be examined by the care development group that is considering the long-term care of the elderly, but that group will not address the concerns that have been raised by the Scottish Association for Mental Health and Capability Scotland.

We can only accept in good faith that the minister will ensure that future regulations will address the issues of openness, fairness, transparency and accountability in relation to local government. If the budget deliberations of the Health and Community Care Committee and the director of finance of the Scottish health department cannot unravel the spending of councils on care in the community, I wonder how ordinary voters will be able to hold councils to account for their commitment to spending on the elderly, those with mental illness and the disabled, as was mentioned by John McAllion this morning.

Given the fact that many of the contentious issues regarding fees and the provision of care will be addressed in the regulations, I ask the minister for an assurance that the Health and Community Care Committee will be given the opportunity to scrutinise future proposals. The Scottish Conservatives welcome and support the motion to pass the bill.

15:53

Mrs Margaret Smith (Edinburgh West) (LD): I welcome the Regulation of Care (Scotland) Bill, and I pay tribute to many people, as we tend to do at this stage.

First, I thank my colleagues on the Health and Community Care Committee for the incredible

amount of hard work that they have done in their careful consideration of the bill. From the speeches that have been made this morning and this afternoon, it is obvious that it has been a team effort. Contributions to amend and improve the bill have come from all parties and have been accepted in that spirit by Malcolm Chisholm, whom I thank for the way in which he has steered the bill through the committee system and through this morning's debate. The manner in which he has dealt with the committee and his willingness to listen to deeply felt and real concerns that we have expressed have done him and the parliamentary committee system credit.

I thank the clerks to the Health and Community Care Committee for a certain amount of hand holding and for calming me down, and I thank our adviser, Peter Cassidy, who assisted us as well. Thanks also go to the people who have been involved in the consultation processes that have taken place, including those who have given evidence to the committee. I give special thanks to the National Association of Inspection and Registration Officers, whose representatives took me on an inspection visit of the Peacehaven home near Leven, where I met several people who are at the sharp end of all this. I thank them also for their indulgence and help.

The bill is obviously a genuine attempt to improve the quality of care services in Scotland through regulation, inspection, enforcement and the achievement of national standards. It is a good piece of legislation, which sets up the commission for the regulation of care and the social services council and brings with it regulation of a professional work force and, it is to be hoped, the recognition that those people deserve. I hope that it also brings with it the common sense to see that, as with any work force, the level of a worker's experience counts. Already, one constituent has contacted me to say that their local council has said that their qualifications, which have been acceptable for nine years, will no longer be acceptable as a result of the proposals. I ask that authorities use common sense and take people's experience into account.

It is also to be hoped that the bill will bring an end to the confusion that arose from a situation in which nursing homes were regulated by health boards and local authorities had queries about their independence. The council as service provider, commissioner and regulator is a thing of the past. We also have the potential for homes that combine residential and nursing care, so that people will not need to be moved when their condition deteriorates. Such moves can threaten their well-being.

The bill is an attempt to protect the weakest in our society: the children in our care homes and in

aftercare; the elderly in our residential homes and nursing homes; and the children in our secure units. It covers a wide range of care services and I am glad that we were able to add more care services to those that were covered. A number of areas of concern have been resolved or partially resolved. The one of which we should be most proud is the increased frequency of inspections. There will be children lying abed tonight who will thank us for that. That is the main success of the committee's involvement in the bill.

The bill includes a statement of general principles to the effect that the safety and welfare of all persons who use care services are to be protected and enhanced, that there will be a diversity of choice and that the independence and dignity of the individual will be promoted. Throughout the bill, there are references to equal opportunities and to consultation with users and providers of services so that, as we make progress with secondary legislation and with all the work that flows from the bill, their expertise will enhance that process.

Many issues that the Health and Community Care Committee has dealt with are not in the bill and have not been discussed in the chamber. We have discussed the location of regional offices and the input from local care service users and providers. We welcome the national forum that the minister will set up and the fact that the commission can set up sub-committees to ensure that local people have an input.

The Deputy Presiding Officer (Patricia Ferguson): Wind up, please.

Mrs Smith: That input will be useful in ensuring that we monitor the effect that the bill has. Most of the effects will be good but, as we heard in today's debate, the bill will have financial implications. It will be important to monitor the effects of the bill at a local and a national level.

I thank the minister and the committee for the work that has been done. I welcome this bill and commend it to the Scottish Parliament.

15:58

Margaret Jamieson (Kilmarnock and Loudoun) (Lab): I hope that Margaret Smith has left some time for me to use in this debate. [*Laughter.*] Members may laugh, but I point out that only once during the consultation and stage 2 debate did the committee make a breakthrough and finish before 12 o'clock. Obviously, Margaret Smith does not intend to make a similar breakthrough today and will not keep to any of the agreements that we made.

I welcome the passage of the bill. Many members have campaigned long and hard in the

interests of protecting the vulnerable in our society. They have waited long enough for this day. The passage of the bill ensures that the highest level of services and care provision will be the norm rather than the exception. Throughout stages 1 and 2, witnesses who gave evidence to the Health and Community Care Committee complimented the Executive on the level and quality of the consultation that had been afforded to them. That is something that all other ministers should take on board when they are pursuing legislation through the Parliament. It is also encouraging that future consultation has been enshrined in the bill.

This morning, we heard much about care staff's terms and conditions and about how they could be linked to the eventual contract prices. From my experience in a previous life, I have to say, "If it were only so simple." Many people employed in the social care field would value the right to be a member of a trade union that was recognised by their employers. If we can achieve that with this bill, we will have achieved something significant. The opportunities for the staff who will be registered under the provisions of the bill, for example, in continuing professional development, will in themselves serve as a driver for higher wages and for having the professions recognised.

The confidence of staff, of the public and of users will be high, thanks to the safeguards that the bill affords them. It is right and proper that those in our society who are vulnerable in any way are assured that those who are caring for them work at the highest standard. The standards that are to be set for care homes will, following consultation, set out the way forward. "The Future for Care Homes in Scotland: A Consultation Paper", which has been produced recently, sets the scene for what some people in Scotland have already embraced.

It would be remiss of me not to congratulate East Ayrshire Council, Ayrshire and Arran Health Board and the owners of two nursing homes in Kilmarnock and Loudoun constituency, the Torrance Lodge Nursing Home and Gracelands Nursing Home, which have used foresight in anticipating the direction taken by the consultation paper.

It would also be wrong if nothing was said about the other areas that the bill addresses, particularly those that relate to young people. The joint work that we carried out with colleagues in the Education, Culture and Sport Committee demonstrated the commitment to comprehensive, high-quality provision, to safe care and to a regulated work force. I certainly hope that the Minister for Education, Europe and External Affairs—it is a shame that he is not in the chamber—considers the questions that have been

raised about the work force in regard to nursery nurses.

In conclusion—because I am getting a wind-up look from Nicola Sturgeon—I wish to place on record my grateful thanks to the Health and Community Care Committee clerks and to our adviser, Peter Cassidy, for their guidance to and forbearance of committee members during the many meetings that we had to consider the bill. I have much pleasure in commending the bill to Parliament.

16:03

The Deputy Minister for Health and Community Care (Malcolm Chisholm): Shona Robison will be pleased that I will get the last word on this matter, although she may not be pleased if I get it on certain other issues.

I wish to thank everybody who has been involved in the bill over the past five months, first on the Parliament side. That involves a great many people. I think that five committees were involved with the bill at stage 1, which illustrates the superb scrutiny that we give to legislation at that stage. That is a unique feature of this Parliament. I cannot name all those committees, but I thank in particular the Health and Community Care Committee, which did such an enormous amount of work on the bill at each stage. I thank the clerks to that committee and the other parliamentary officers who helped with the bill.

I am not sure whether I am supposed to do this, but, secondly, I would like to thank my officials. A regulation of care team has been working on the bill for several months, and it should be congratulated for the very open way in which it has conducted its work. That leads to the third group of people to thank, which is the large number of members of the general public who have participated in the work carried out on the bill. The enormous strides that we have made in engaging with the public over the past two years is sometimes not appreciated. That engagement was always one of the ideals to be mentioned in connection with the Parliament, and we have seen that in action with this bill.

The working groups that considered care standards involved representatives of the stakeholders and of the users of services. If the public becomes aware of that procedure, they will realise that the Parliament is moving towards a new way of doing business, particularly in relation to legislation. I suppose that I am more aware of that, as I am able to compare our procedures with those of Westminster. In passing, I note that John McAllion was pleased because this was the first time that an amendment to a bill lodged by him had been accepted, after 14 years at Westminster.

I accepted an amendment of his that changed “may” to “shall”—[*Laughter.*] He said that that never happens at Westminster.

Mary Scanlon referred to the importance of the regulations that will follow in the wake of the bill. We agreed to an amendment this morning that will ensure full consultation on those regulations. I am sure that the Health and Community Care Committee is looking forward to them.

I will mention one particular set of regulations on local advisory committees, which is an issue that was not aired this morning. Margaret Jamieson lodged an amendment about local advisory committees at stage 2, in response to which I indicated that the Executive was minded to set up a national advisory forum. I gave certain details about that proposal to the Health and Community Care Committee recently, but it has yet to get into the public domain. I hope that all those in Scotland who were concerned about that issue will recognise that we intend to set up a national advisory forum by regulation. That forum will be an open body that will have the power to set up sub-committees, which could well be like the local sub-committees that many members support.

When we implement the bill's provisions, we intend to continue the inclusive process through which the bill arrived at this stage. Without being too self-congratulatory, we should be pleased with the procedures adopted for the bill. In the midst of the bad publicity that sometimes attaches to the Parliament, we can be proud of what we have done.

I thank everyone, and I hope that the bill will be passed.

Motion without Notice

16:07

The Deputy Minister for Parliament (Euan Robson): I seek the permission of the chamber to move a motion without notice.

The Deputy Presiding Officer (Patricia Ferguson): I am minded to accept the motion to bring forward decision time. Are we agreed?

Members indicated agreement.

Euan Robson: In order to allow for the fact that business has concluded early, I move,

That the Parliament agrees under Rule 11.2.4 of the Standing Orders that Decision Time on Thursday 31 May 2001 shall begin at 4.08 pm.

Motion agreed to.

Decision Time

16:08

The Deputy Presiding Officer (Patricia Ferguson): There is only one question to be put as a result of today's business.

The question is, that motion S1M-1965, in the name of Susan Deacon, which seeks agreement that the Regulation of Care (Scotland) Bill be passed, be agreed to.

Motion agreed to.

That the Parliament agrees that the Regulation of Care (Scotland) Bill be passed.

Scottish Regiments

The Deputy Presiding Officer (Patricia Ferguson): The final item of business is a members' business debate on motion S1M-1932, in the name of David McLetchie, on proposed cuts to the Scottish regiments. The debate will be concluded without any question being put.

I ask members who are leaving the chamber to do so quickly and quietly.

Motion debated,

That the Parliament believes that the proposed substantial cuts to the size of both the regular army and the Territorial Army will undermine the efficiency and morale of the British armed forces, damage our military capability and threaten the future of Scotland's historic frontline regiments.

16:09

David McLetchie (Lothians) (Con): This morning, I had the honour of attending the annual service at the Scottish national war memorial in Edinburgh Castle, in the company of the First Minister and John Swinney. It was a powerful reminder to all of us of the supreme sacrifice made by tens of thousands of Scottish servicemen and servicewomen in two world wars and other conflicts around the globe and of the outstanding contribution made by Scots to our armed services in defence of our freedom and liberty and that of other peoples and nations.

It is therefore timely that today we should debate this motion. I would like to thank those members who have supported it, the amendment lodged by Colin Campbell and the similar motion lodged by my colleagues Brian Monteith and Lord James Douglas-Hamilton.

The motions and the amendment in similar vein were prompted by an internal Ministry of Defence paper that recommends cuts of up to 10 front-line regiments in the British Army and the merger of Scotland's two brigades in the Highlands and Lowlands to form a single headquarters. The paper was leaked to a major national newspaper and stated:

"There is no military justification for retaining two brigade HQs as well as HQ Scotland. Units in Scotland could be effectively and more efficiently commanded by one brigade-sized HQ located at Craigiehall."

The Secretary of State for Defence, Mr Hoon, has claimed that there are

"no plans to change Army force structures because of a lack of resources."

However, Major General Robert Gordon appeared to contradict that by confirming the merger of the highland and lowland brigades, only to retract his confirmation some days later.

The story becomes all the more believable when senior defence sources tell the same newspaper that the executive committee of the Army board had been told not to put any proposals to ministers until after the election so that ministers could maintain plausible deniability on the subject. However, the plans would be proposed "within weeks" of the outcome of the general election.

It is clear that there is a study that proposes cuts to the size of the British Army and that the Labour Government is determined to cover it up until after the election. That, of course, is very much in line with Labour's record in government on the armed forces over the past few years. The size of the Army has shrunk under the present Government, which has reneged on yet another pre-election promise—to increase the size of the Army.

The cuts that are proposed in the MOD paper will have serious implications for Scotland. The two brigade headquarters—of 51 (Highland) Brigade, which is based in Perth, and 52 (Lowland) Brigade, which is based in Edinburgh—not only administer the Regular and Territorial Army units that are under their command, but play a vital role in promoting community links, supporting recruitment and performing civic duties.

The headquarters provide good value for money and are capable of expanding in times of war or adapting in times of crisis, such as the flooding in central Scotland in 1992 and the recent foot-and-mouth outbreak in the Borders. The geography of Scotland demands that, militarily, the Highlands and Lowlands be treated separately. Scotland's regiments are already overstretched and a strong headquarters presence is essential to fight their corner.

On its own, the merger of the highland and lowland brigades would not necessarily lead to the loss of any of our established regiments. However, the Scottish division faces manning problems that leave it vulnerable to further cuts. The merger could be the thin end of the wedge. Once the two brigades are merged, the regiments would be next in line. The Highlanders, the Black Watch and the Royal Scots, all of which are more than 100 men under strength, appear vulnerable to the proposed cuts. They will find it extremely difficult to tackle the current recruitment problems if they lose their distinctive identities.

There being no direct threat to our national security at present, the Army is experiencing severe difficulties with recruitment. At the moment, the benefits of a career in the Army are clearly outweighed by the drawbacks, most of which have been magnified by Her Majesty's Government.

Retention problems are exacerbated by recruitment problems. With fewer recruits, the serving troops are spending more time on tours of

duty and less time on training or with their families. That leads to a loss of morale and to exhaustion and makes it more difficult to maintain the high standards of which we are justly proud. Those conditions only serve to make a career in the Army even less appealing to potential new recruits.

I realise that defence is a reserved matter—long may it remain so. However, it affects Scotland directly and the Parliament should be heard in support of our regiments. As usual, Her Majesty's Government is pursuing its agenda by stealth. The proposed cuts pose a real threat to our defence capability, which is overstretched at present. That is why my party is opposed to further cuts. In our determination to resist them, we welcome the support of members of other parties in this Parliament.

The strategic objective of the Army is

"To sustain the capability necessary to achieve operational success."

If we lose any more of our regiments in Scotland, the Army will be unable to achieve that objective.

16:15

Mr John Home Robertson (East Lothian) (Lab): When I left the House of Commons on dissolution two weeks ago, I assumed that I would not take part in any further parliamentary debates on defence. As David McLetchie said, this is obviously, rightly and properly a UK reserved matter. I therefore find it a little surprising that the Conservative and Unionist Party, of all parties, should raise a debate, in the devolved Scottish Parliament, on the defence of the United Kingdom. However, strange things happen during election campaigns.

I come to the debate as a former member of the House of Commons Defence Select Committee, like one of those crusty old soldiers with very long memories. Indeed, I have some recent memories that lead me to conclude that it is reckless hypocrisy for the Conservatives to try to raise scares about the future of Scottish regiments. Perhaps Mr McLetchie would care to remember the notorious so-called "Options for Change" cuts to our armed forces, which were imposed by a Tory Secretary of State for Defence back in 1992.

Ben Wallace (North-East Scotland) (Con): Will the member give way?

Mr Home Robertson: Sorry—I have only four minutes. Ben Wallace was in the Army, so he probably experienced those cuts.

I will discuss details of the Army in a second but, incidentally, it was a certain Mr Malcolm Rifkind who was Secretary of State for Defence when Rosyth Royal Dockyard was stitched up and its submarine refit work was transferred to Devonport.

Meanwhile, the nationalists posed a rather perplexing conundrum: they condemned a decision not to refit nuclear submarines at Rosyth despite the fact that they proposed to keep the submarines out of Scottish waters altogether.

The Labour Government is fulfilling the objectives that are set out in the defence review—to give our armed forces the resources that they need to fulfil the tasks that we ask of them, including the vital peacekeeping roles that I have seen being undertaken in Bosnia and Kosovo. The Labour Government has increased defence expenditure in real terms to reinstate some of the cuts that were imposed by the Tories following the end of the cold war. I know that the Secretary of State for Defence has no intention of reducing the strength of the armed forces. I see that my colleague Lewis Moonie has made it abundantly clear that the allegations that David McLetchie has been talking about are simply not true. Perhaps his motion should have been ruled out of order.

Our responsible approach to our armed forces is in marked contrast to that of the Conservative Party. The Tory Government closed the naval base at Rosyth and took a political decision to take submarine refit work away from Scotland. In 1992, the Tories tried to reduce the number of Scottish infantry battalions from nine to six. They scrapped the 2nd battalion of the Scots Guards; they amalgamated the Gordon Highlanders with the Queen's Own Highlanders; and, unforgivably, in my constituency, they tried to amalgamate the Royal Scots, the 1st regiment of foot of the British Army, with the King's Own Scottish Borderers, just after both of those battalions returned from active service in the Gulf war.

As a Labour member of the Scottish Parliament, I am proud to have been part of the campaign to save the Royal Scots and the KOSB from that last round of Tory defence cuts. I have complete confidence in my colleagues at the MOD and, in particular, Lewis Moonie—our candidate in Kirkcaldy—in safeguarding these matters.

Ben Wallace rose—

Mr Home Robertson: I noted that David McLetchie spent First Minister's question time talking about football; this motion should be dismissed as an epic own goal.

16:19

Colin Campbell (West of Scotland) (SNP): I am delighted to talk about this reserved matter in the Scottish Parliament. I thank the proposer of the motion.

I have no doubt that there will be a Labour denial of any threat to any Scottish or UK regiments. However, a long tradition of regimental

loyalty in the Ministry of Defence brings about very well informed leaks from time to time. After the election is over, things may happen.

The MOD has to find £0.5 billion from its own budget to allow for the high-cost equipment that Labour will buy—aircraft carriers and the aircraft for them. There is an increasing possibility of troops returning to the UK from abroad, which will result in accommodation problems in the UK, and there is a major problem with recruitment and retention, to which the politically expedient solution of some people is to combine battalions.

I have never sensed any affection in Labour for the traditions of the regiments. Indeed, as a head teacher, I once was given a verbal order not to let the armed forces into our school; I asked, “Whose?” and was told, “The British,” which surprised me.

The UK has worldwide commitments. Arguably, it tries to do too much with insufficient people. I had a conversation last summer with a senior regular officer, who buttonholed me and suggested that if the Army is reduced further, it will fall below the critical mass that is necessary for it to carry out its tasks.

The SNP supports the Scottish regiments. The regiments are built on strong local, family, traditional and emotional ties. Those links die when regiments are disbanded, and often are not transferred when regiments are amalgamated. In short, any further disbandment or amalgamation will exacerbate an already difficult recruiting situation. The SNP is committed to the Scottish regiments as they will form the foundation of the army in the Scottish defence forces.

The Territorial Army is inevitably embroiled in any consideration of cuts. Recent experience of the options that were presented before the strategic defence review revealed that some regulars will sacrifice TA units to safeguard the professionals. Reduced by almost a half in Scotland, the TA has fewer centres and therefore offers less access to young people who might be persuaded to join. As the TA provides around 10 per cent of the Army overseas, that puts an undue burden on a reduced number of employers to allow their staff to go off on TA duties. As the TA provides a route by which many join the Regular Army, any reduction in the TA affects regular recruitment.

Far be it from me to destroy, or even hint at destroying, the consensual nature of members’ business debates, but the Tories have a nerve posing as the saviours of the Scottish regiments. In 1945, there were 10 Scottish infantry regiments. Now there are six regular Scottish infantry regiments.

Ben Wallace: There was a war then.

Colin Campbell: I know that there was a war. I was alive then. Where was Ben Wallace?

Labour disbanded the Cameronians. The Highland Light Infantry, the Royal Scots Fusiliers, the Queen’s Own Cameron Highlanders, the Seaforth Highlanders, the Queen’s Own Highlanders and the Gordon Highlanders were all amalgamated or disbanded by Tory Governments. It was so clumsily done that at the time of the Gulf war it was said that there were service personnel out there who received their P45s. In addition, the Royal Scots Greys were amalgamated with the 3rd Carabiniers in 1971, under a Tory Government.

While I have no difficulty supporting the purpose of this debate, I do so with the caveat that the motion is indicative of selective amnesia on the part of the Tories, and that the image that the Tories like to portray as the sole guardians of UK military tradition has been shown by recent history to be deeply flawed.

The Deputy Presiding Officer (Mr George Reid): Now to members who in another place would be described as gallant: I call Mike Rumbles, followed by Ben Wallace.

16:23

Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD): I am grateful for the opportunity to speak in this debate, as I believe that I may be the MSP with the most experience of army life, having enjoyed 15 years’ service in the Army, at home and abroad. In my first posting, I had the privilege of serving at the Scottish infantry depot at Glencorse, which is not far from here, and working with the magnificent seven—the seven regiments of the Scottish infantry division.

I say seven because 21 years ago, when I arrived in Edinburgh, there were seven regiments. Sadly, there are now only six, because the Gordon’s and the Queen’s Own Highlanders were amalgamated to form the Highlanders. It is sad when any regiment is amalgamated, but times and needs change. Uncomfortable as it is for the Conservatives, I remind them that that amalgamation took place under a Conservative Government in 1994—the pot calling the kettle black comes to mind.

I remember well my 15 years of Army service. I specialised in officers’ education, dealing with promotion programmes from lieutenant to captain and captain to major. Ben Wallace, who was laughing earlier, might care to listen. It is unfortunate that while he was a junior officer he and I never met; perhaps I could have taught him something about the real world.

My period of service between 1979 and 1994 coincided with a period of governmental salami

slicing. In other words, it was a period when the Government constantly demanded more of the Army and would not agree to an increase in funding to meet the greater tasks. I remind members that I am talking about a period under the previous Conservative Government. Part of my role at that time was to talk to junior officers about strategic studies and to prepare them for their wider role in promoted service.

I am more than surprised to see the motion from the leader of the Conservatives. I would have thought that the Conservatives would be the first to recognise that a change to the structure of our Army is essential if our forces are to reflect modern-day military operations. The Conservatives are always reluctant to face up to reality; they are at it again.

We need fast, modern forces that are designed to work best in a rapid reaction role. Gone are the days—thank goodness—when we needed a field army to fight on the north German plain. I am glad that I need not participate any more in military operations on the north German plain, preparing for general warfare.

We need radical reform and military effectiveness at home and abroad. It is obvious that we will not obtain such reality from the Conservatives, but thank goodness they will not be in a position to salami-slice our armed forces again. I hope that they are out of government for a long time and that it is only their rhetoric that we have to put up with.

16:26

Ben Wallace (North-East Scotland) (Con): I thank the Presiding Officer for letting me speak and David McLetchie for lodging the motion. I also thank *The Daily Telegraph*, which provided some of the documents to which I will refer, and John Spellar, the Minister of State for the Armed Forces, for clarifying the position. I would like to answer John Home Robertson's points.

The regimental system is valuable to any soldier who serves on the front line. For those who are in the teeth arms—the cavalry, the tanks, the artillery or on foot—it is important to have something to bond to. In the battle of Tumbledown in the Falklands, my regiment decided to wear berets rather than helmets, to allow soldiers to identify one another and to show regimental pride, which has often carried people through such dangerous and difficult times.

We hear much about how the Conservatives reduced regiments; they did. I was part of a regiment. I must say to Colin Campbell that it would have been impossible for people in the regiments to receive their P45s during the Gulf war, because "Options for Change" was not

announced until after the Gulf war took place, although I grant that there were stories about people receiving such notifications in Bosnia.

We should remember that the reduction was a response to the collapse of the Soviet Union and the Warsaw pact. I know that regiments are valuable, but it is often necessary to change our armed forces' capability in response to the threat. That is the key. That is why, after the defeat of the Nazis and the Japanese in 1945, and after the collapse of the Soviet Union in 1992, it was important to reduce our capability.

We do not believe in having regiments for regiments' sake, as the SNP sometimes seems to. We do not believe in maintaining armed forces just for parades. We mean to have serious defence forces that can match our foreign policies. That is the danger of the suggested cuts. The proposed cuts or studies—whatever one wants to call them—would not be made because the threat in the rest of the world had reduced or because the situation is easier out there and our foreign policy commitments have lessened. Our commitments have increased in East Timor, Sierra Leone, Bosnia and Kosovo. We are sending more troops to those countries.

As someone who spent time on operations and on the ground, I know that it is important that politicians of all parties learn to match their armed forces capability with their foreign policy goals. What annoys us as soldiers is when we are shoved from pillar to post because President Blair wants to look good or a Prime Minister wants to show that he can conquer the world, without remembering the capability of the armed forces.

Mr Home Robertson: What about Malcolm Rifkind?

Ben Wallace: Malcolm Rifkind saved Mr Home Robertson's local regiment. I did not hear Mr Home Robertson offer congratulations on that. Malcolm Rifkind made the decision that saved the local regiment, while John Home Robertson's party was in opposition—for 18 years.

We should also remember that when Mr Blair announced the purchase of aircraft carriers in 1998, it did not take the brains of an archbishop to work out that the £2 billion that he allocated for them was not enough. Each new aircraft was going to cost between £16 million and £20 million. If Mr Brown has 30 aircraft on an aircraft carrier, he will have to find £0.75 billion. That is the problem.

The cuts are being caused not by a reduction in the threat, but because Mr Brown will give defence no more money. Indeed, Mr Brown does not want to give President Blair big aircraft carriers, as that would make him look good. Mr Brown will find his cuts from the Army.

Mr Home Robertson: Rosyth is in Mr Brown's constituency.

The Deputy Presiding Officer: If members want to make interjections, they should stand to make them. There have been too many seated interjections in the debate. I ask Mr Wallace to wind up.

Ben Wallace: The money has to come from somewhere. It worries me that it may well come from the Army. John Home Robertson says that Dr Moonie, the Labour candidate in the Kirkcaldy constituency, can confirm that there are no plans to take the money from there. A letter from John Spellar, the Minister of State for the Armed Forces, dated 14 May states:

"Work is underway to consider the location of Brigade Headquarters within the Army as well as their roles and responsibilities."

I also have the Army study document in which some of the changes are proposed. The cuts are not fiction. If Mike Rumbles looks at the document, he will be able to mark the staff writing—in the Army, we were taught how to put together studies and about staff writing. There is an example of that in the document produced by the general officer who proposes the redistribution of brigade headquarters. The cuts exist, in the words of John Spellar and in the Army study. It is important that we do not discard that fact.

A general election is coming up. After it, I would not be surprised if Mr Brown intended to screw the nut, as we say, if he is in power—

The Deputy Minister for Sport, the Arts and Culture (Allan Wilson): He will be.

Ben Wallace: That is highly unlikely, but if he is, I hope that he will resist the changes to the regiment. I hope that we all do.

The debate is not about threat; it is about money. It is about Mr Blair over-committing on foreign policy and causing strains. It is also about saving our Scottish regiments who have done sterling work in peace and wartime.

16:32

Dorothy-Grace Elder (Glasgow) (SNP): Despite his party's history of destroying Scottish regiments, Ben Wallace rightly says that the debate is all to do with money. The threat to the Army, and to the armed services throughout Britain, comes largely from defence spending going the wrong way. Billions are being squandered on nuclear weapons, while the traditional services are underfunded and have been so for years. At least £50 billion has been squandered on rusting nuclear submarines. Many of us who oppose nuclear weapons most certainly do not oppose traditional services, as the British

isles will always need them. The SNP would like to see the strength of the traditional services increased.

We need the Army and our Scottish regiments for human conflict, as sadly that will always occur, horribleness being a part of the human condition—some ghastly dictator is always springing up somewhere. Look at how we use and exploit the Army. During the foot-and-mouth crisis, who has been given the dirtiest of the dirty work? It is the Army—"Call in the Army".

I say to my fellow parliamentarians that the Army is seriously under strength in Scotland. The six regiments of the Scottish command—although that title is no longer given, as it is now called HQ2 Division, whatever that means—are under strength. The 1st Battalion Royal Scots is 111 under strength; the 1st Battalion Royal Highland Fusiliers is 66 under strength; the King's Own Scottish Borderers is six under strength; the Black Watch—in which several of my relatives have died over the generations—is 80 under strength. The 1st Battalion Argyll and Sutherland Highlanders is 27 under strength. The 1st Battalion the Highlanders is 118 under strength. The Scottish command—as I will still call it—is a total of 408 under strength. That is quite alarming.

Apart from anything else, the Army gives excellent training to young people. There are many serious problems. At one stage, the British Army was losing more men—young men—to suicide than to armed conflict. I was involved in a battle with the Ministry of Defence to gain £400,000 for an anti-bullying helpline. Many things need to be done.

We have heard the denials that anything horrid will happen to the Scottish regiments. Our message should be that we trust the Army, but we do not trust the Ministry of Defence. Only people who still believe in the tooth fairy would trust a statement from the Ministry of Defence in London. I have found that out from many campaigns over the years—right back to the "Save the Argylls" campaign.

It is our duty to protect the Army, which does so much to protect us. It is our duty to protect our Scottish regiments, which over the generations have lost proportionately more soldiers than any other grouping in the British isles. Let us remind ourselves that the Parliament would not be here today were it not for the Army. Indeed, democracy would not have survived in these islands without the Army. I ask members to regard the regiments with respect at all times and to fight for those who fight so hard for us.

16:36

Lord James Douglas-Hamilton (Lothians) (Con): In supporting David McLetchie's motion, I should mention a past interest as a Scottish soldier and as an officer for just on 10 years in the Cameronians (Scottish Rifles).

John Home Robertson may be surprised that we raise the subject, but we do so for a very good reason. A past Labour Government not only axed three quarters of the Territorial Army but eliminated a famous Scottish regiment. I should know because it was my own regiment, the Cameronians (Scottish Rifles).

I well remember that terrible day when the regiment had to march out to its disbandment. I put a line through my diary—I was an advocate—so that I could be one of the few to witness the sad and sorry scene. What did I find when I arrived at the lonely moor, near the village of Douglas? The whole hillside was alive with thousands and thousands of men and women—some 22,000 of them. I could see the tall figure of Lord Reith, the founder of the BBC; a platoon of generals, as the Cameronians had had more generals than any other regiment; and Mrs Winnie Ewing, the newly elected MP for Hamilton. When the service took place, the minister at the altar addressed the soldiers. He said, "You, who have never been defeated in battle, are eliminated by the stroke of a pen in Whitehall".

Behind closed doors and in the utmost secrecy, individuals, no doubt, will be planning more strokes of the pen. They would be wise to remember that, after the disbandment of the Cameronians, the Argyll and Sutherland Highlanders received 1 million signatures in support.

Scotland's regiments—which include the Royal Scots, the Argyll and Sutherland Highlanders, the Royal Highland Fusiliers, the King's Own Scottish Borderers, the Highlanders and the Black Watch—number among the best front-line fighting units to be found anywhere in the world. So do the Scots Guards—although their regimental headquarters are outside Scotland. The Scots Guards, along with the Scottish regiments, form much of the backbone of the British Army. Those regiments give assistance in civil emergencies, such as floods.

At a time when British soldiers are being asked to do more with fewer numbers, we believe that the Scottish regiments are worthy of the strongest possible support. We ask the minister to pass on our concern to the Ministry of Defence and to outline in the clearest possible terms the strength of our commitment to the regiments, in the best interests of our nation.

16:38

Donald Gorrie (Central Scotland) (LD): Although the subject of this debate is a reserved matter, we have a right to have a say on it because it impinges on many issues for which we are responsible. It has been said, rightly, that the philosophy must be that a country should decide its policies, commitments and priorities and develop its armed forces to meet those. Everyone would agree that peacekeeping and the excellent work that our Army is doing in many parts of the world should be the No 1 priority.

It may be slightly off-message for me to say this, but I do not see why we need so much highly expensive and unusable gear—weapons that we will never use anyway—when that means economising on the people on the ground. What we need for peacekeeping purposes is well-trained infantrymen and others as well as up-to-date equipment, which we seem to lack. We must keep those well-trained people that Scotland produces in such good numbers.

We have to recognise that, for various reasons, it is now harder to recruit. There is prosperity in many parts of the country and a change of public opinion—people find discipline harder than their ancestors did. There is no point in ignoring the problems with recruitment—they must be addressed. We can perhaps play a part, because it is part of the social fabric of our country to give suitable young people—men and women—the opportunity to enter the forces.

We have a particular interest in the role of the Territorial Army—and of the cadets—which recently suffered cuts. I believe that those cuts were a mistake. The TA and the cadets can fulfil a useful function. Arguably, they should be funded from our police, jail and education budgets. They are an important part of the social fabric and of the opportunities that we give our young people.

The fact that our forces are overstretched has a severe effect on their morale. Two of my relatives are army chaplains, who have to spend a lot of their time metaphorically picking up the pieces from the stress that the soldiers suffer. It is wrong that we should cause stress to people whom we employ because we are not prepared to pay to employ enough of them.

As David McLetchie said, foot-and-mouth disease and the recent floods have shown the importance of having well-organised, efficient men and women to deal with civil emergencies. That is a factor that any Government should consider. We should put our opinions forcefully to the Government—whichever Government it is after 7 June—and say that the regiments are an important part of Scottish life and that they give a

great deal of service in the way of peacekeeping, for example. We should earnestly urge the Government to address the issue of how better to recruit. We would be happy to co-operate with the Government to help to create more opportunities for recruiting soldiers and bringing up the numbers to the right figure.

16:42

The Deputy Minister for Enterprise and Lifelong Learning and Gaelic (Mr Alasdair Morrison): I begin by associating myself with David McLetchie's opening remarks. I stress the word "opening" because, although he rightly remarked on the contribution that Scottish servicemen have made over the years, after the first 30 seconds, sadly, he went somewhat awry.

I thank my colleague John Home Robertson for his excellent and incisive speech. If I am quoting him correctly, he described Mr McLetchie's contribution as "reckless hypocrisy". I happily endorse that and will expound further on why the contribution was reckless and hypocritical.

I was relieved that Colin Campbell did not update us on the SNP's latest position on chemical warfare and am delighted that he did not mention the conscription scheme that is supported in the SNP's beloved Norway. *[Interruption.]*

The Deputy Presiding Officer: If you want to make an intervention, Mr Campbell, please stand up.

Mr Morrison: Many members rightly touched on the importance of the peacekeeping role taken by many of our troops. I put on record the fact that I first met my eminent colleague John Home Robertson on the island of St Kilda. I was a reporter while he was there as a member of Parliament. Mr Home Robertson, my friend Calum MacDonald and other members of the House of Commons Defence Committee rightly recognised the obvious qualities of the rocket range on South Uist. They were ably supported by the late Sir Nicholas Fairbairn, who served at that rocket range in the late 1950s. On behalf of my constituents on South Uist, Benbecula and North Uist, I salute John Home Robertson and former members of that committee.

Members have rightly pointed out that this is a reserved matter—Mr McLetchie well appreciates that. Nevertheless, I welcome the opportunity to set the record straight on what is an important subject. The future size and organisation of the Army, especially in Scotland, is a topic of great interest to many and one that raises strong emotions. However, I regret to say that it is my understanding that most of what has been written about the subject over the past few weeks—and indeed some of what has been said in the

chamber today—has been inaccurate and misleading. I certainly welcome the opportunity to set the record straight.

I begin by setting out the facts of the situation. The motion is based on a totally false premise. I must make it absolutely clear to everyone that no cuts are proposed. I am assured by colleagues at Westminster that the Westminster Government has no plans or proposals to cut any regiments. Neither are there any plans or proposals to reduce the size of the Territorial Army. The question of cutting any Scottish regiments—or any other regiments for that matter—simply does not arise.

The rumours that have been reported in some quarters that parades are already being arranged to mark the disbandment of some regiments are equally unfounded and are unsettling to those concerned. There has also been speculation about the future of brigades in Scotland. Once again, let me reassure members that there are no plans to reduce the number of brigades in Scotland from two to one. Neither is there any intention to reduce the number of brigade headquarters in Scotland.

Far from agreeing to any cuts, the UK Government has increased funds for defence. As John Home Robertson pointed out, the Government was able to announce last July the first sustained increase in real terms in the defence budget for 10 years.

Mr Rumbles: I am grateful to the minister for making the situation clear, but there is one thing that he has not mentioned. Does the Government have any plans to withdraw our forces from our remaining garrisons in Germany so that we can have our folks home, where they can have an input into our economy rather than the German economy? Is he aware that the UK Government has any such plans?

Mr Morrison: I am certainly not aware of any such plans. As someone who is standing in as a defence minister for a mere seven minutes, I am not in a position to update Mr Rumbles. However, I am happy to convey his question to Lewis Moonie and other ministers when they assume office in a week's time.

It is wrong and alarmist to suggest that there is a need to change Army force structures because of a lack of resources. The strategic defence review set out targets for increasing the size of the Army. The Government remains committed to achieving full manning for the Army and is making active efforts to meet that target, particularly in Scotland, where a specialist recruiting company has been engaged to assist. Nobody pretended that meeting that aim would be easy. Indeed, the difficulties of doing so against the background of a buoyant economy and adverse demographic factors make the task particularly challenging, but that is no

reason for not trying. Considerable effort is being put into achieving the aim of full manning.

The strategic defence review also recommended restructuring the Territorial Army. The aim was to make it a more relevant and usable organisation. Despite the siren voices at the time, the restructuring has been a marked success. There is no intention to reduce further the size of the TA. The Army will continue to look at ways of making even better use of that important resource. As one would expect, the Army is always looking at its command arrangements to ensure that the most effective structures are in place.

Contrary to comment in the chamber, that work is not being undertaken in secret, with decisions being announced the moment the ballot boxes close on 7 June. The Army has set out a strategy for the future in the document entitled "Strategy for the Army", which was made available to Westminster defence spokesmen in March this year. I am happy to make a copy of that document available to any member who is interested. Recommendations from that work are not likely before the autumn. They will include recommendations on, among other issues, the roles and responsibilities of the regional brigade structure. However, there is no suggestion that there will be a reduction in the number of brigades in Scotland.

Ben Wallace: I accept the minister's assurances that there will be no change in the number of brigades, but can he assure me that there will be no change in the location of the brigades?

Mr Morrison: I am just coming to that point. I shall make that clear as I proceed—I see that I have about 40 seconds left in which to do so.

I hope that what I have said has made the position absolutely clear. Members should be aware that Major General Robert Gordon, general officer commanding the 2nd Division, wrote to the editor of *The Daily Telegraph* stating that the Army was not planning to scrap the two brigades in Scotland or to merge some of Scotland's undermanned regiments. I understand that the editor, who had previously published inaccurate stories on that topic, unfortunately chose not to publish the major general's letter.

All the politically inspired furore and speculation is extremely unhelpful. More than that, it is deeply worrying to soldiers and their families as it causes them totally unnecessary concern about their welfare and future careers.

We must not forget the civilians in Scotland who work directly for, and in support of, the Army. They, too, will have been worried that their livelihoods might be at risk. I trust that my comments today will go some way towards reassuring everyone concerned and easing some

of their understandable fears.

I conclude by thanking David McLetchie for the opportunity to set the record straight. I make it clear that the Westminster Government has assured me that there are no plans to cut any regiments, to reduce the number of brigades in Scotland or to reduce the size of the Territorial Army.

Meeting closed at 16:50.

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