

MEETING OF THE PARLIAMENT

Wednesday 27 June 2001
(*Afternoon*)

Session 1

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Scottish Parliament

Wednesday 27 June 2001

(Afternoon)

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

Time for Reflection

The Presiding Officer (Sir David Steel): To lead our time for reflection today, I welcome Sister Isabel Smyth, who is the secretary of the Scottish Inter Faith Council.

Sister Isabel Smyth (Scottish Inter Faith Council): Today, there is a buzz and excitement around because the holidays are drawing near. There is a general rush to get everything done before we can leave things behind and take a break. I am sure that there is a sense of achievement and a sense of satisfaction of things well done—and much has been well done by the Parliament. However, there will also be the memory of things not so well done, of mistakes and misunderstandings.

Holidays are a time for letting go of all those things, for putting them behind us and for allowing ourselves to take some rest. Rest is not, on the whole, something that we are very good at. We tend to define ourselves by what we do rather than by what we are, yet the Judaeo-Christian tradition teaches that it is as divine to rest as it is to work.

In Genesis, we are told that God blessed and made the seventh day holy. Why? Because

“on it God rested from all the work which God had done in creation.”

The holiest day in the week is not a day when work is done, but the Sabbath—the day of rest. The rabbis speak of the Sabbath as the rest of God and as a return to the silence that was there before God uttered his creative word. Rest and relaxation are part of God.

We are also told in the book of Genesis that we human beings are made in the image and likeness of God. Therefore rest and relaxation in our lives are important and, in fact, necessary if our work is to be creative and purposeful. We all need Sabbath times, holidays and holy days to renew and refresh our spirit, to savour and enjoy life. Without those moments, our work will be ineffective and we will be in danger of suffering burn-out or some other illness.

We need Sabbath moments—moments when we can return to the space within us to restore our spirit and get in touch with our inner wisdom. One

such moment is this time for reflection—a moment of stillness in a busy day and week. And so I invite you to be still for a moment, to be silent, to savour the moment, allowing yourself to relax into it. As you relax, become aware of the pattern of your breathing. As you breathe in, calm your body, saying to yourself, “calm”. As you breathe out, allow yourself to smile, saying to yourself, “smile”. Breathing in, become aware of this as the present moment; breathing out, become aware of it as a wonderful moment.

And so we have calm; smile; present moment; wonderful moment.

And so I wish you Sabbath rest when it comes, full of delight and refreshment, and pray that God will bless to you the earth beneath your feet, the path whereon you go and the things of your desire.

National Qualifications (2001 Exam Diet)

The Presiding Officer (Sir David Steel): Our next item of business is a statement by Mr Jack McConnell, on national qualifications and the 2001 exam diet. As usual, there will be questions at the end of the statement.

14:35

The Minister for Education, Europe and External Affairs (Mr Jack McConnell): Like everyone, I was saddened to read this morning of yet another tragic suicide of a young person in Scotland, which should be a source of great concern to us all. I can assure the chamber that we remain committed to tackling the problems that beset young people in our schools, including school bullying. In the meantime, our thoughts should be with the families and friends of those who have died—not just this week, but recently.

I am pleased to provide a further report on the 2001 examination diet. My previous statement on progress towards this summer's exam diet was just before Easter. The exams are now over, and young people should enjoy a well-earned break. The overall picture of this summer's exams is a successful one. I thank all those—the Scottish Qualifications Authority, teachers, lecturers, markers, examiners, invigilators and the tolerant young people—who have contributed to achieving that.

I am pleased to confirm that the SQA, in co-operation with the national exam co-ordinator, has recruited sufficient markers. The SQA has also confirmed that all markers have the required experience. There were problems, however, and we will review the process for appointing markers to see what lessons can be learned. I acknowledge the contribution that was made by all those involved in the exercise and I am sure that the Parliament will join me in recording our thanks to local authorities, schools, colleges, teachers and lecturers for their efforts in recent weeks.

It has been crucial this year to improve the management of data. By the end of the month the SQA will have provided to centres three sets of reports on data accuracy and progressively and systematically reduced the number of potentially incorrect entries in the system—an unprecedented effort to ensure the integrity of the data that are received and recorded. That has meant a great deal of work for staff in schools and colleges.

The data transmission process will be reviewed to see how it can be streamlined, but detailed scrutiny is essential if candidates are to be

confident that the results on their certificates are correct and that their achievements are properly rewarded. I thank again all those who have been involved in that process. The national exam co-ordinator wrote to centres at the end of last week, and stressed the importance of a final data check. I reiterate that today. The final check will provide vital assurances about the integrity of the data that are held by the SQA. I cannot overstate the importance of investing time this week to provide a final sign-off of data.

I want candidates to be well-informed about the arrangements for certification in August. The SQA issued an updated national qualifications digest at the beginning of June, which contained information about progress on data input, summer helplines, the sequence of results and other information. The SQA has also issued, through centres, details for candidates on what information the certificates will contain, and information on the quality assurance processes that underpin assessment. That information is also on the SQA's website. I will write to MSPs next week with details about the certificate, the timetable for certification and SQA helplines. I hope that colleagues will find that helpful in dealing with inquiries from their constituents.

The SQA will ensure that centres have information about their candidates' results before the candidates receive their certificates. That will allow candidates to get immediate advice from their schools or colleges about anything they do not understand, or on what to do if they are disappointed by their results. Along with their certificate, candidates will receive information explaining how to contact the candidate inquiry line. There also will be two technical helplines, which will be staffed by school account managers and college customer relations managers, who will take calls from their own centres.

As I stated in my previous report, my department and the SQA have agreed a series of performance measures. Those measures cover critical areas, and provide a sound basis for publicly measuring the SQA's success in surmounting the difficulties of last year. A copy will be placed in the Scottish Parliament information centre for the information of all MSPs.

The primary aim of last year's independent appeals review was to review results and ensure that standards were properly maintained. The independent appeals review team will report to me on the lessons that have been learned and I will issue a summary to centres before they return in the autumn term.

My objectives for this year's appeals are that appeals should be made only when a realistic prospect of success exists, that appeals are supported by high-quality evidence to ensure that

every candidate is given the best grade that they can achieve and that all appeals are processed quickly and accurately.

The appeals system ensures that we do not track performance in the exam room as the only measure of ability. Appeals exist primarily to give candidates whose exam performance did not reflect the ability that they showed in their work at school or college a second chance, using evidence from their course work. To help everyone, centres will receive information about this year's appeals that will include a summary of the process, confirmation of roles and a description of the evidence required. That will be supported by an appeals pack to coincide with the publication of results.

In November, I appointed a smaller, interim SQA board, against a background of broad recognition that the previous board had been too large. The interim board is working well, but I am taking steps to bring board membership back up to 15, as required by statute. I will advertise for new SQA board members after the holiday period, when advertising will catch the maximum number of possible candidates and we will have completed diet 2001.

The data reconciliation exercise for colleges took longer to complete than expected, with consequences for the issuing of certificates to candidates. I understand that the exercise is complete but for a few cases. I regret the long delay. It is important that lessons are learned and that improvements are made for next year.

The national qualifications review was conducted by representatives of schools, further education colleges, education authorities, the SQA and Learning and Teaching Scotland—LTS—through the national qualifications steering group. The Scottish Further Education Unit and the Association of Scottish Colleges were also involved. I am grateful for their work. Their full report was published on Monday 25 June and I note that members agreed all the recommendations.

The steering group was right to emphasise that the new qualifications have delivered important benefits—particularly the better ladder of qualifications for young people. That creates opportunities and allows previously unacknowledged achievements to be recognised. The uptake of the new national qualifications has been greater than expected. That is proof that they are meeting needs. However, we must make the system better and easier to operate.

The report of the national qualifications review makes several recommendations to ease the burden of assessment, which I welcome. They include a redesign of the qualification certificate

and a review of appointment procedures for marking. The report recommended first, a speedy revision of assessment arrangements, course by course, to reduce the complexity, variety and total volume of assessment. Secondly, provision of advice and exemplification on assessment was recommended. Thirdly, a series of actions designed to establish a better common understanding of standards was recommended. To clarify the purpose of national assessment bank items, increasing consistency and purpose and improving quality assurance and availability were recommended. I make it clear that I fully accept those recommendations and will make arrangements for their immediate implementation.

A task group will proceed with the work on implementation. The group will be chaired by the national exam co-ordinator and will include representatives from schools, further education colleges, local authorities, the SQA and LTS. I expect the task group to meet for the first time before schools return in August. The national qualifications steering group will continue to advise the Executive more generally.

The same agreement has not been achieved on what can be done to reduce the volume of assessment more radically. The report recommends consultation on two options that would affect to some degree the underlying principles of the new national qualifications.

Option A would allow candidates to achieve a course award by success in the external exam and make unit certification available as an option. That would allow a reduction in internal assessment for candidates who did not wish to acquire unit certification. Option B would allow candidates to achieve an ungraded course award by showing that they had achieved the full range of unit learning outcomes, with an optional external assessment available for candidates who wished to achieve a graded award. That would allow a reduction in external assessment and in related internal assessment.

Neither option is straightforward, but we must act. As soon as it is possible, we will consult openly on the options identified. I want the Parliament to be in no doubt that I am determined to reduce the assessment burden to allow teachers to teach and students to learn.

A number of other recommendations relating to learning, teaching and staff development will also be progressed. The task group recommended that further consideration be given to streamlining the reporting of information about registrations, entries and results to the SQA. I want that recommendation to be dealt with quickly. I hope that substantial changes can be made for next year. That would ease the burden on teachers, lecturers and administrative staff in schools and in

the SQA.

Nobody is complacent about the significance of delivering accurate certification for candidates on 14 August or about the need for effective communication to ensure that all candidates know what to expect. My officials will remain in close contact with the SQA over the coming weeks. They will focus attention on monitoring the SQA's progress against the project plan for diet 2001.

I believe that we have taken the action required to enable the SQA to complete a successful examination round. I would like to thank all those who contributed to that this year. In these critical final weeks I wish every success to everyone involved. All those responsible must continue their efforts—Scotland's young people deserve no less.

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

I give a broad welcome to the largely positive developments and progress that have taken place since Easter. I add also the Scottish National Party's appreciation of the efforts that everyone involved in the process is making. This year, the overwhelming concern is for everything to go well for all the young people concerned.

The minister acknowledged problems with marking and said that he will review the process. I commend that action, as this week I was approached by a teacher who has experienced nothing but problems with the marking process. Recently, he reluctantly returned scripts that had been sent to him, because he felt strongly that, owing to the shortened time scale that he had been allocated and his non-attendance at markers' meetings, the candidates might be at a disadvantage. He felt that those factors limited severely the efficiency with which he could mark this year's papers. Are such experiences being collated to inform the review? Will teachers be given opportunities to feed into the process of improvement for future years?

Will the minister confirm whether he and those involved will refer to the numerous, detailed and specific recommendations of last year's three inquiry reports when they progress plans for the future performance of and further improvements to SQA practice? Developments to date may be sufficient for this year, but there is no question but that more radical action is necessary. Will the minister further confirm that any improvements will be adequately resourced so that they will be fully effective? What plans exist to include reform of the SQA and the recommendations of the national qualifications review in a wider consideration of the future for Scottish education?

Mr McConnell: It is appropriate for any long-term review to include on-going monitoring of the implementation of the new qualifications and the role of the Scottish Qualifications Authority. This

year, we are committed to a review of the future of the SQA board and of the status of the SQA. Given the excellent work that was done by the Enterprise and Lifelong Learning Committee—which produced one of the three inquiry reports referred to by Irene McGugan—it is important that the long-term review goes ahead.

All three reports informed the action that we have taken. Due to those reports, and the efforts of many people, we have managed to maintain a broad consensus across Scotland to work together to deliver this year's examination diet. Any report recommendations that it was not possible to implement this year will lie on the table to be addressed soon after 14 August.

Many lessons are to be learned from this year, not least from those who have experienced the system at first hand. I pass on every individual case that is passed to me, including comments from people who have been involved in marking. Comments are passed to me directly or they are given to me by MSPs or by other means—that includes the letters page of *The Herald* and other publications. All those comments are helpful.

It is appropriate that we learn the lessons, but we should not give in to the problems that have existed. The number of markers has doubled in recent years. There is no point allocating blame. Our resolve must be to solve the problems and to ensure that the marking system works better in future years. For example, one of the changes that will probably have to be made in years to come is the introduction of a process of appointing markers annually, rather than on two or three-year contracts. We can simplify the system, address some of the difficulties and make the system better for all concerned. As we try to achieve that, I am learning at all times from the lessons of those who are most involved.

Mr Brian Monteith (Mid Scotland and Fife)

(Con): In trying to calm our nerves, the minister has clearly taken today's prayer to heart. Thankfully, there will be no deep intakes of breath following the minister's statement.

I, too, pay tribute to teachers, the staff of the SQA, civil servants and, indeed, the minister for the effort that has been put into trying to bring about diet 2001 on time and to deliver accurate results. This year, the SQA clearly has gone to great lengths to ensure that better information is available to make management decisions, which has assisted in identifying problems where they existed. I have no doubt that those problems have been tackled. No one will be more relieved about that than the First Minister, who I am sure will praise the fact that the Minister for Education, Europe and External Affairs has intervened a great deal more than his predecessor did.

I have three questions to put to the minister. First, it is my understanding that the advice that the minister received previously was that the board of the SQA could be constituted of the current 11 members, that being the quorum that allowed it to proceed. It would be a great problem if that advice were wrong. I welcome the fact that the minister will propose new appointments, but will he reassure me that, if that was the quorum and the number of members, every meeting of the board has been fully attended? One would not wish there to be a successful legal challenge against the board.

Secondly, I welcome what the minister said about reducing teacher work load. Two options have been mentioned. Will the minister tell us whether options other than A and B will be considered?

Finally, a number of ministers have mentioned in passing that the SQA may be up for a further review of its structure and its relationship with the Scottish Executive. Is the minister able to give us any further details about its status as a quasi-autonomous non-governmental organisation? Will it become more directly involved with the Scottish Executive?

Mr McConnell: The review that I referred to has been under way for some months. It is not a new review; it was referred to by the Minister for Finance and Local Government in his statement last Thursday. I hope that no one has any preconceived ideas about what its outcome might be. We need to choose the best structure and organisation for delivering Scotland's examination system. We will continue to work towards that. The Parliament will have a chance to debate the matter in due course.

On the legality of the current board, the advice that I have is that the legal position allows for vacancies on the board; any vacancies do not nullify the decisions of the board. It is important that we take action to fill those vacancies. Clearly, it would have been inappropriate to do that while the Executive was reviewing non-departmental public bodies. It is inappropriate to do it in July, but we will certainly do it in August. My understanding is that all the decisions of the SQA in the first half of 2001 will stand any legal test that anybody wishes to throw at them, although I hope that that will not be necessary or desirable.

I echo the comments that Mr Monteith made about the way in which everyone has worked together. It is important for the confidence of young people that we do not get into scoring political points on the issue of the examination diet. I am grateful to the Opposition parties for the way in which they have handled the matter in recent months. My experience of school visits in the past two months is that young people have

seriously appreciated the way that the Parliament has acted.

Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD): I welcome the minister's statement, which seems practical and contains lots of positive news. I thank everyone involved in the work that has gone into preparing diet 2001. Like Jack McConnell, I wish the candidates well.

I have a couple of questions about this year's diet and about the review. There are lessons to be learned from the marking problems. I wonder about scheduling the examinations to help the recruitment of markers. The minister mentioned the final check. Reading between the lines, I take it that some of the individual centres have yet to undertake or solidify that final check. Will the independent appeals review team have any direct involvement in this year's process, or is it a back-up?

The review is welcome and the minister has renewed an important pledge to reduce the complexity, variety and volume of assessment. Teachers will be absolutely delighted to hear him repeating that pledge which, I hope, will be fulfilled. The minister said that reducing the volume of assessment is still causing dilemmas and talked about the options that are available. Can he give us an indication of the nature and extent of the consultation and of the time scale involved?

I am also interested in the fact that he talked about considering assessment course by course. What does that mean? I hope it does not mean that there will be a one-size-fits-all answer to the problem. I welcome the further consideration of streamlining registrations, which were near the heart of a lot of the problems that we had last year.

Mr McConnell: I understand that next year's examination diet timetable allows three weeks for marking—longer than was available this year or last year. That is certainly an improvement and it shows that some of the lessons of last year and this year have been learned.

We have just received the report and we need to plan the consultation. We will do that in due course and I want to do it in consultation with the Education, Culture and Sport Committee. I am also keen to get moving quickly on the course-by-course review. It is blatantly obvious which courses need to be reviewed first. The report makes reference to that, in particular to the high-volume courses. Our efforts will be directed towards attempting to conclude the course-by-course review by the end of the year, so that it will not take too long and so that people can be confident that there will be action.

On the general issue of assessment, I add to

what Ian Jenkins said by reflecting on the fact that it is not just teachers who have raised the burden of assessment, although they have made such points, which has been helpful. Inside the SQA, processing the assessments is a burden but, perhaps more important, many pupils have told me that assessment is getting in the way of them learning their course. That is a problem and that is why we have to examine the assessments carefully, course by course, to secure the right balance between internal and external assessment.

It is vital that everybody—not just in the individual centres, schools and colleges but in the SQA—works together closely over the next week or so to get the final checks right. Thousands of young people have withdrawn from courses over the past year. Many of them have been identified, but some have not been. Clearly, they will not get certificates. We must ensure that those who do not get certificates in August are those who have been withdrawn. It is vital that everybody works together to ensure that that happens.

It is also vital that we minimise the number of individual certificates that have some form of inaccuracy on them. There has probably never been an examination diet anywhere in the world where every certificate is right. We need to be conscious of that, but I want to minimise the number of certificates with which there may be problems. We must have a streamlined, efficient and effective system, so that young people who have a question on 14, 15 or 16 August can get that question answered promptly. That should be our task—not just to strive for the maximum number of certificates that are right, but to deal quickly with those that are wrong.

The Presiding Officer: Seven members would like to be called and we have just under seven minutes, so exchanges should be short.

Karen Gillon (Clydesdale) (Lab): I thank the minister for his statement.

On the appeals process for this year and next year, the minister will agree that it is unacceptable that some students received their final results only in the past month. That has had implications. Will the minister consider sending results directly to candidates? There has been some delay and students have moved from the institutions that submitted them as candidates. That has caused problems. The proposal might be worth considering.

I welcome the minister's comments on the further education sector. The Education, Culture and Sport Committee has been concerned about that sector. Will the minister assure us that the problems in the further education sector this year will not happen again next year and that the same

level of input and resources that has been used to alleviate the problems in the school sector will be put in place to ensure that students who undertake further education courses will not be disadvantaged next year?

I hope that the minister will accept that it is unacceptable and unhelpful to read about a drip effect in respect of changes to the assessment procedure, particularly in respect of external examinations. As the minister rightly said, any changes will have huge implications for the whole national qualifications system. It would be much better to take changes forward through consensus and informed discussion. What mechanism is there—if there is one—for adding further options to the consultation on changes to the external and internal procedures?

Mr McConnell: The arrangements that I outlined are for both types of centre—further education colleges and schools. There will be special helplines for both and there will be people with whom the centres are used to dealing regularly. I hope that we can secure the same efficiency and effectiveness in the further education sector as we hope to achieve in the schools. As Mr Monteith said, I may have to take many deep breaths.

I assure members that we are doing and have done everything we can to ensure that the process works well. I have provided such assurances for months.

I do not envisage a second round of appeals next year. I hope that the first round of appeals will work well and can build confidence in the system. I also hope that we will be able to communicate the outcome of appeals to candidates quickly. The plan is to do so in the traditional way, through the centres. I hope the centres will accept their responsibility to pass on the results to their candidates.

On assessment, there is sometimes a difficulty with involving so many stakeholders, but it is right to try to build consensus for change through stakeholder working groups. Discussions that are at an early stage can sometimes produce odd pieces of information in the press, but that is a risk worth taking to build support. In the months ahead, I hope that those involved in the task group will respect the confidentiality that should go with their position.

As part of the consultation, there will be space to propose other options in addition to the two options that I have outlined as being the most likely to go forward.

Alex Neil (Central Scotland) (SNP): I, too, welcome the minister's statement. I have three short, sharp questions.

First, I heard what the minister said about appeals, but there was a little hint of—and a wee bit of concern about—rigidity in how appeals are dealt with this year. Will the minister assure us that the guiding principle will be, “If in doubt, we’ll hear it out,” and will give people the benefit of the doubt, particularly in borderline cases?

Secondly, on the data reconciliation exercise for colleges, can the minister tell us how many cases are still outstanding and when they will be resolved?

Thirdly, what is the total spend on this year’s diet likely to be? Will funding be guaranteed for next year’s diet if necessary?

The questions are easy.

Mr McConnell: Mr Neil will not be surprised to learn that they are easy questions for which there are probably not exact answers. I do not have a figure for the exact spend on this year’s diet or, indeed, last year’s, but we have made the necessary funding available and we will continue to do so. These examinations are critical. I will soon be able to clarify the additional resources that have been made available to the SQA.

The number of outstanding cases reduces every day, which is a good thing. We are now down to a few. At the end of this week or the beginning of next, I will be happy to clarify for Mr Neil and others how many cases are outstanding at the end of June. I expect to receive an updated report from the SQA within a few days.

The most important thing about this year’s appeals is to get the guidelines right in advance, so that the centres send in the right evidence and submit only appeals that have a decent prospect of success. One problem last year was the processing of the appeals and the way in which some of them were tackled. On some occasions a rigid approach was taken. The matters were dealt with through the second independent appeals process. There were also problems with the nature of the evidence that some centres submitted and the hopes that built up among some candidates that passing individual unit assessments is equivalent to passing a prelim; it is not.

The lessons have been learned throughout Scotland. I hope that, as a result of the appeals pack that we will produce this summer, all schools, centres and colleges will be able to advise candidates much more effectively about when appeals should be submitted and that they will be able to submit the right evidence to back up the appeal.

Cathy Peattie (Falkirk East) (Lab): I welcome the minister’s statement, especially his commitment to consult the Education, Culture and Sport Committee.

Does the minister agree that teachers and young people are stakeholders in assessments? Can he give a commitment that young people will be listened to? The evidence that the Education, Culture and Sport Committee took from young people indicated that assessments have been very stressful. We must listen to young folk.

Has any thought been given to the SQA and the centres having a common information technology system? That would make the situation much easier.

Mr McConnell: On the involvement of young people, I pay tribute to Jennifer Bryce, from Cumnock Academy, and Victoria MacDuff, from St Modan’s High School in Stirling, who both served on the ministerial review group. Their input has been vital in giving us an understanding of the experience of the people who sit the exams. My commitment to reducing the burden of assessment comes as much from talking to senior pupils throughout Scotland over the past 12 months as from talking to teachers or to people at the SQA. I hope that we can continue to involve senior pupils, as many schools do, in policy formulation. That is important.

I am keen to consider other ideas, as Cathy Peattie suggests, as we look beyond this diet and try to improve all the arrangements in the future.

The Presiding Officer: We have run out of time, but I will take the four remaining members if they ask one question each. The minister will give an omnibus reply.

Stewart Stevenson (Banff and Buchan) (SNP): If the minister were wearing a halo today, it would be a 1,000-watt halo. Well done.

I will focus on the data that have come into the SQA system from the Scottish Vocational Education Council. One of the problems in the SQA was that the SCOTVEC data contained records for individuals in many different places. We will encourage people to come back into the educational system in years to come. Are we ensuring, as part of the current data clean-up, that data that are not being used this year, but that may be needed in subsequent years, are addressed?

Donald Gorrie (Central Scotland) (LD): Can the minister assure us that his package of measures will greatly reduce the flood of paperwork that engulfs schools and colleges?

Hugh Henry (Paisley South) (Lab): Will the minister give a commitment to continue initiatives such as meeting head teachers and teachers at the secondary schools that serve my constituency of Paisley South? Will he also give a commitment to listen to the concerns of teachers in trying to resolve on-going problems?

Richard Lochhead (North-East Scotland)

(SNP): Following on from Hugh Henry's question, I return to the theme of acquiring direct feedback from Scotland's teachers. They can write to the letters pages of *The Herald* or to their local MSPs, but is it possible for the minister to set up a channel of communication to get direct feedback from all of Scotland's teachers on the past changes and the way forward?

Mr McConnell: On the first question, we are endeavouring to do just what Mr Stevenson has asked and ensure that all data are appropriate and accurate. On Mr Gorrie's question, not only am I committed to reducing greatly the amount of paperwork, but I believe that we have already done so. We are working constantly to achieve that aim. Furthermore, we are working to ensure that the paperwork received is useful and is not just a burden.

With regard to meeting and listening to teachers, Mr Henry knows that I have had a productive meeting with head teachers from the Renfrewshire Council area. The meeting happened at a critical time in the diet and has produced a helpful change in the arrangements. I will continue to meet and to listen to teachers. I have conducted dozens of meetings with teachers across Scotland since I became Minister for Education, Europe and External Affairs at the end of October. I have no intention of changing that approach to my job in August or beyond.

The Presiding Officer: I thank members for their co-operation.

Serious Violent and Sexual Offenders

The Presiding Officer (Sir David Steel): The next item of business is the debate on motion S1M-2041, in the name of Mr Jim Wallace, on serious violent and sexual offenders, and an amendment to that motion.

15:11

The Deputy First Minister and Minister for Justice (Mr Jim Wallace): I am pleased to move the motion today. First, it confirms that we have delivered on all of our programme for government commitment to

"review the law by 2001 in relation to sexual and violent offenders, including harassment and in particular stalking".

Secondly—and more important—the content of the motion deals with an issue that concerns us all: public safety.

Our programme for government commitment took account of public concern about safety. Quite rightly, the public wanted to feel that they were protected from harassment, from being stalked and from predatory violent and sexual offenders. When I made a statement to the Parliament in January, I marked the delivery of the part of the programme for government commitment that deals with stalking and harassment.

The action plan that I announced then took account of the wide-ranging response to our consultation exercise. The main points of that action plan are: the introduction of a new statutory power of arrest when a non-harassment order is breached, which we will certainly do at the earliest legislative possibility; and working with the police and the judiciary to examine the training and guidance that are available for those who come into contact with victims of stalking and harassment. We are now developing that with the Judicial Studies Committee for Scotland and the Association of Chief Police Officers in Scotland. We have commissioned the research that I proposed in January to give us a clearer picture of the current situation and to help us to decide whether a new statutory offence of stalking is necessary. In those different ways, we are already implementing our action plan.

Today, I will turn mostly to the major issue of serious violent and sexual offenders. The white paper, which was published on 11 June, completed our undertaking to review the law in what is acknowledged to be a difficult area.

Members will recall that a committee was set up in early 1999 by Henry McLeish, when he was Home Affairs Minister at the Scottish Office. The

committee's remit was specifically to examine the treatment and management of high-risk offenders. We were very fortunate to have the committee chaired by the High Court judge Lord MacLean, with expert representatives from the fields of criminal justice and mental health. In June last year, the committee produced a comprehensive and far-reaching report on serious violent and sexual offenders, and I thank the committee again for its hard work, its commitment to the task and the quality of its report.

There were 52 recommendations in the MacLean report, all of which had one over-riding theme. The sentencing and management of serious violent and sexual offenders should be based on the risk that they pose, and there was a need better to assess and address that risk throughout the criminal justice system.

At the time, Scottish ministers warmly welcomed the report, and we immediately put it out to public consultation. I am pleased to say that the majority of respondents were very receptive to the report's recommendations, and I express my gratitude to those who contributed to that important part of the process.

The results of the committee report and the subsequent consultation are now reflected in our white paper, which translates the MacLean recommendations into legislative proposals. Those proposals show that we have fully accepted the MacLean committee's over-riding theme, as well as almost all the committee's detailed recommendations.

We believe that we have developed a comprehensive regime to assess and manage the highest-risk offenders. Fortunately, not many offenders fall into that category. Crimes of violence account for only 6 per cent of all crime, and crimes of indecency for only 1 per cent. Indeed, it is estimated that fewer than 20 of the people who come before the courts each year and receive discretionary life sentences and very long determinate sentences—the sort of people whom we are talking about today—pose a high risk to the public of the type that was considered by the MacLean committee. Although that number is relatively small, we owe it to the public to ensure that they are adequately protected from that small but difficult group.

That is not a simple matter. Finding the right sentencing regime for those offenders is important, but it is also vital that the risk that they pose to the public is managed properly and adequately. That is why we are setting up a new body to manage that risk and introducing a new sentence to provide for lifelong control of high-risk offenders. We will create a new authority—the risk management authority—which will be responsible for promoting good practice in the assessment and

management of risk throughout Scotland. The RMA will be an executive non-departmental public body.

The RMA will neither duplicate nor take over any of the excellent work with high-risk offenders that is already done by the Scottish Prison Service, criminal justice social work services, mental health services and many other statutory and voluntary sector agencies. It will ensure that standards in risk management come up to, and are maintained at, the same consistently high level in every part of Scotland. The RMA will promulgate best practice in risk assessment and risk management generally, and it will focus on the individual needs of the highest-risk offenders. The RMA will be asked to find out what works well in the assessment and management of risk. Vitally, it will produce best-practice guidelines and standards for agencies throughout Scotland. If that means introducing new ways of working, the RMA will be ready to assist all agencies with the introduction of those new approaches.

The RMA will also have specific responsibility for the highest-risk category of offenders—those who are serving the new sentence, the order for lifelong restriction. The agencies that are responsible for the assessment, management and treatment of people who are serving the new sentence will be required to produce a joint risk management plan for each individual. That risk management plan is an innovation that builds on existing best practice. It will be drawn up to address the offender's individual risk factors and to help them to reduce their risk while ensuring maximum public safety.

The RMA will have an important monitoring role in that process. All risk management plans will be submitted to the RMA for approval. If a plan does not meet the RMA's rigorous standards, it will be sent back for further work. We do not expect that to happen often, but when it does, the agencies involved will collaborate with the RMA to amend the plan until the offender's risk is being properly managed and reduced.

I am pleased to announce that some £8 million has already been budgeted for the years 2002-04 to set up and begin the running of the RMA. We want the authority to hit the ground running, and that sum of money will allow it to do that. Agencies are already funded to manage high-risk offenders, but the RMA will be able to assist those agencies in considering how best and most cost-effectively to manage that small group of high-risk offenders.

Those arrangements are crucial to the successful implementation of the new sentence that we will introduce—the order for lifelong restriction, or OLR. The OLR will provide for lifelong, multi-agency control of any offender who is considered by the court to be a high risk to the

public. The order will be available to the High Court after a conviction for a violent or sexual offence, or for an offence that is demonstrably linked to violent or sexual offending.

To impose the sentence, the court must first order a full risk assessment. That comprehensive report will help judges to decide whether the offender presents a high and continuing risk to the public. If so, the sentencing judge will be required to impose an order for lifelong restriction. The OLR will start with a period of punishment that will be set by the judge. Release of the offender after that time will be a matter for the Parole Board, which will be required to consider whether continued detention is necessary to protect the public.

The risk management plan will be an essential tool for the Parole Board in deciding whether an offender can be released into the community. Release is likely to be contingent upon the offender sticking to strict conditions. Any breaches will make the offender liable to recall to prison.

The work will not stop once the offender has been released. The risk management plan will develop and change throughout the offender's lifetime, whether the offender is in prison or in the community. If the offender requires intensive interventions in the community, the plan will provide for that.

The third element of the proposals is the new arrangements that will also deal with high-risk offenders with a mental disorder, including those with a personality disorder. Mentally disordered offenders who are assessed as a high risk, whose risk is not related solely to a treatable mental disorder, will receive the particular psychiatric care that they need by means of a hospital direction that allows for transfer between prison and hospital. However, they will also receive a prison sentence of an order for lifelong restriction and they will be managed for life.

In practice, that means that high-risk mentally disordered offenders, including those with severe anti-social personality disorders, will not in future remain in secure hospital care once they are considered untreatable by mental health care professionals. Once they are sufficiently recovered, they will go to prison and stay there until their risk to the public has been adequately reduced.

I believe that those new arrangements will provide for a better balance between care of high-risk mentally disordered offenders and the protection of the public. It was encouraging to see that the Millan committee's review of the Mental Health (Scotland) Act 1984 supports the same broad principles. We are considering all the recommendations of the Millan report and my colleague Susan Deacon will publish a policy

statement later in the year once the recommendations have been considered.

The risk management authority and the order for lifelong restriction are part of a series of recent developments that are intended to reduce the threat that is posed by sexual offenders.

Many members will be aware that the report of Lady Cosgrove's expert panel on sex offending, "Reducing the Risk: Improving the Response to Sex Offending", was published on 12 June. The expert panel has produced a comprehensive package of 73 wide-ranging recommendations that are aimed at developing a cohesive framework to protect communities from sex offending, and I would like to take the opportunity to thank the panel for its work. A report of that level of detail requires detailed scrutiny. As we did with the MacLean committee report, we have put out the report to wide public consultation. Our decisions on the recommendations will be informed by the responses.

The Scottish Executive has been fully involved with the Home Office in the recent review of the Sex Offenders Act 1997. Some changes to the act have been made as a result, and the Parliament will recall passing a Sewel motion in the autumn to allow changes to be made in legislation that was being dealt with at Westminster. We propose to consult further on the other proposals arising from the review. Of course, the recommendations of the Cosgrove report will also be carefully assessed in that context.

I have covered a lot of ground and a lot of the issues are detailed: the Cosgrove panel's proposals on sex offending, which the Scottish Executive is considering; the joint Scottish Executive and Home Office review of the Sex Offenders Act 1997; the Millan committee report; the MacLean committee report, which is the subject of the white paper; our on-going work on stalking and harassment; and, now, our important proposals for dealing with serious violent and sexual offenders, which we are committed to legislating on at the earliest opportunity.

I move,

That the Parliament welcomes the publication of the Executive's White Paper on serious violent and sexual offenders, fulfilling the Programme for Government commitment to "review the law by 2001 in relation to sexual and violent offenders, including harassment and in particular stalking"; agrees that the public deserves to be protected from the highest risk offenders, and commends the Executive's proposals for a new sentencing, management and treatment regime for this small group of offenders as an important step in building a Scotland where people are safer and feel safer.

15:24

Phil Gallie (South of Scotland) (Con): When reading this white paper, we have no choice but to go along with the stated aim of the minister: to make Scotland a safer place to live in. That is the aim of all members. To some of us in the Conservative party, that aim would be a bit more convincing if, when Labour came to power and the Scottish Executive came into being, they had implemented with a little bit more enthusiasm, and in full, the Crime and Punishment (Scotland) Act 1997. That would have addressed a number of the issues that the MacLean report considers, albeit not, perhaps, with the thoroughness of that report.

We welcome the underlying direction of the white paper, which is based on the findings of the MacLean committee. At the same time, I express some reservations about the minister's earlier comments on time scale. It is a year since the MacLean report was published, although, admittedly, consultation has taken place between then and now. However, it will take time to draft a bill. Perhaps, in his closing speech, the minister will express his thoughts on when a bill will be introduced to Parliament that covers the issues that are addressed in the MacLean report.

We consider that, in effect, the MacLean report endorses the Conservatives' stated aims and objectives over a number of years with respect to securing the safety of the public from the activities of violent criminals and sex offenders. Our amendment underlines the realities of the situation that the public perceive in Scotland and registers further steps that we believe need to be taken to further the public's interest.

The Executive—and, indeed, the Parliament—does not always listen to Conservative members when they make suggestions on issues that are important to the public and which could well affect public perceptions of law and order. The amendment covers a number of those issues. In time, the Parliament will come to endorse those views, just as it has endorsed, in effect, those of the MacLean report, which goes back to the intentions of the Conservative Government of 1997.

Perhaps what is happening now with tagging will make the minister recollect my support for tagging in the latter days of the Conservative Government. Such support was objected to by 100 people out of 101 in the Conservative Government's consultation on tagging. I was pleased to hear the minister's comments today on tagging. I hope that tagging will not be used as a means of reducing the punishment and deterrent elements of sentencing and simply as a means of keeping people out of prison. Tagging has a useful role. I believe that it can be put to good use.

The situation at Her Majesty's Prison Barlinnie suggests that the Executive would do well to listen to representations from members of all parties about the conditions in Barlinnie and the way in which funding that was used in other areas should have been directed.

I also cast my eyes southwards and point to my Conservative colleagues' recent comments on double jeopardy. I recognise that MacLean considered that subject. My message to the minister is that he should not totally ignore all that Opposition spokesmen say on such issues. When I have spoken previously in the Parliament about double jeopardy, that has been ridiculed to some extent. However, in the future, Mr Blair and his Government intend to pursue a similar line to that of my Conservative colleagues.

No doubt the amendment will be disagreed to. If it is, we will support the minister's motion, as we believe that—apart from the self-congratulatory elements that are always part of Executive motions—the motion is well worth supporting.

The white paper has three main elements: the risk management authority; the new sentence—the order for lifelong restriction; and mentally disordered offenders. With regard to the RMA, the minister talked about consistency. I go along with that—consistency is a good word to describe the aims of the RMA in establishing elements of risk. I like to think that the RMA will induce some consistency in relation to those who are released into our society in the future.

The RMA could be considered to be just another quango and, at the moment, there is a move to rid us of quangos. However, the Conservatives will not object to this quango, which, we believe, has meaning and serious objectives. The intention is for the RMA to deal with serious violent offenders and sex offenders, but we consider that the authority, which is an intermediary body, should perhaps become involved with other, even more serious, categories of offender. It is somewhat ironic that the cases of those who have been convicted of murder will be addressed only by the Parole Board for Scotland, now that the Minister for Justice has opted out of his role in determining whether people will go free. The fact that people who commit lesser offences—a serious violent offender has committed a lesser crime than someone who has committed murder—will be subject to two levels of scrutiny suggests that the minister should reconsider that issue when he introduces the bill. If he were to do so, that would be welcome.

A number of questions come to mind with regard to the RMA. It is acknowledged that risk assessment techniques and the knowledge that is required to make those assessments are sadly lacking. The principal task for the RMA will be to

address such problems, but the authority is also charged with making judgments on standards set on best practice.

I ask the minister whether, in establishing the level of risk assessment and insisting that that assessment is part of how we deal with prisoners in the future, it will be possible in the short term to produce best-practice criteria, so that there will be no delay when the RMA becomes involved in the release of prisoners in the future.

The remit that the RMA has been given is limited to those offenders who have been sentenced under an order for lifelong restriction. Will the minister hazard an estimate of the likely periods of punishment and deterrence that will be set, following the introduction of the new type of sentence, from today's date? I am talking about serious offenders and sex offenders and I recognise that that question will be extremely difficult to answer, but I ask it because the length of those periods will have an impact. If we assume that the new sentences will be of about five or six years, in effect that would be the length of time before the RMA's role of determining whether individuals were to be released would come into action.

Clarification is needed on other matters. Ultimately, the Parole Board sanctions release. Paragraph 35 of chapter 2 of the white paper underlines the board's right to instruct Scottish ministers to release lifelong restricted prisoners when they have served the punishment-and-deterrent element of their sentence. Now that we are introducing the RMA, will that body be able to put a block on the Parole Board, or will the RMA be only an advisory body to the Parole Board? If the latter were the case, that would be unfortunate. Given all the expertise within the RMA and all the thought that it will put into the plans that will be produced, it should be mandatory for the Parole Board to consider those plans, and the board should not allow release if the plans go against release.

Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD): Will Phil Gallie give way?

The Deputy Presiding Officer (Patricia Ferguson): The member is about to wind up.

Phil Gallie: I am sorry. I would have liked to take an intervention from Mike Rumbles.

I have a number of other queries. One relates to the time that it may take to make a risk assessment after a criminal has been convicted. A period of 90 days has been suggested, with perhaps a further 90 days allowable. That could mean someone who had been convicted of a crime not being aware of the sentence that they had received for six months after the date of conviction. Could that provision be regarded as

contravening the European convention on human rights? That is a serious point and I ask the minister to address it. If a prisoner intended to lodge an appeal and that appeal was blocked by the requirement for a risk assessment to be made, could that be seen as a breach of the prisoner's rights?

I would have liked to make a number of other points, but I am sure that they will be raised during stage 1 and stage 2 consideration of the bill.

I move amendment S1M-2041.1, to leave out from "fulfilling" to end and insert:

"but regrets the fact that the Labour Government in 1997 repealed a number of sections and did not bring into effect others in the Crime and Punishment (Scotland) Act 1997 which would have ensured honesty in sentencing and reassured the general public that serious sexual and violent offenders were dealt with justly."

15:36

Roseanna Cunningham (Perth) (SNP): As the lack of an SNP amendment to the motion suggests, I have no hesitation in welcoming the publication of the white paper on serious violent and sexual offenders, which paves the way for implementation of the MacLean report's recommendations more or less in their entirety. In my speech I want to focus on those proposals.

Since the report was published, I have been calling for the MacLean recommendations to be implemented, so I am not about to start opposing them now. I am happy to welcome the Executive on board—finally. As recently as February this year, the Labour party dismissed the SNP's proposals as "uncosted nonsense". A few short months later, much of that so-called "uncosted nonsense" is being presented to the Parliament by the minister. He may want to reflect on some of the silly, knee-jerk statements that are made on behalf of ministers, perhaps even with their authority. Some months later, those statements can look a little hollow.

For many years, the SNP has argued that our criminal justice system should provide for a form of lifetime supervision for certain categories of offenders—particularly those for whom it is considered that there will never come a point when they can be regarded as no longer posing a danger to the public. It is now a year and a day since the MacLean report was published. At the time I was quoted in the newspapers as saying:

"we must study its proposals in detail but, having waited some time for its publication, we will be looking to the Scottish government to move swiftly in order to act on its recommendations, so we achieve reform and better protection for the public as quickly as possible".

I am not sure that, after waiting a year and day, the Executive is allowed to say that it has acted

swiftly. It will also be some time before these proposals are implemented in practice. Nevertheless, I am pleased that progress is being made.

There is certainly a need for legislation to deal with violent offenders. Since new Labour came to power in 1997, the number of serious assaults has increased by 15 per cent and the level of violent crime has risen by 22 per cent. Meanwhile, the number of individuals granted parole is increasing. In 2000, 374 prisoners were granted parole, compared with 311 in 1999. The number of adult mandatory life prisoners released with the agreement of ministers has increased from 10 in 1999 to 17 in 2000.

I have never been a fan of keeping people in prison unnecessarily. There are still proportionately more people in prison in Scotland than in almost any other European country. However, if serious violent and sexual offenders are to be returned to the community, we have a duty to protect society from the possibility of their reoffending. Equally, we should have a desire to support those offenders in their attempts to correct their behaviour, if that is at all possible. I accept that there is a great deal of professional evidence to suggest that for some individuals it is not.

Since 1997, the SNP has pressed for the implementation of what is now the MacLean report's recommendation for an order for lifelong restriction to be available to the High Court for high-risk violent or sex offenders. At the time, we described it as lifetime supervision. That would ensure constant monitoring and a recall to custody if the order were breached. Although this is not covered by the debate, I add a plea for the Executive at least to consider making supervised release orders available to the courts, even in summary cases. In some Scottish courts, sheriffs are arguing that their hands are tied by the lack of availability of such release orders, but perhaps that issue is for a different debate.

There is no doubt that lifetime restriction orders are needed. The name John Cronin will be well known in the chamber. His case underlines the importance of introducing lifetime supervision for serial sex offenders. To be frank, if an individual has a repeated pattern of sexual offending, it is unlikely that there will come a time when that pattern of offending will not require control. If serial sexual offenders are to be returned to our communities, a mechanism must be put in place to ensure that they are under supervision for as long as they are at liberty.

It would be irresponsible for the SNP, as an Opposition party, simply to wave through any piece of legislation, no matter how worthy, without some scrutiny. Therefore, I will raise a couple of small concerns.

The Executive has agreed to the MacLean committee's recommendation to create the risk management authority. That is an interesting decision in the light of the ministerial statement given last week by Angus MacKay, who is at long last striking a small match as a precursor to the much-vaunted and long-awaited bonfire of the quangos. Is there no existing organisation that could have carried out the role envisaged for that new body, such as the Parole Board for Scotland or probation services? I would be interested to learn from the minister whether any thought was given to extending the remit of existing bodies rather than creating yet another quango. If that route was considered, why was it rejected? The creation of another quango will raise eyebrows in some quarters.

I know that concern has been expressed that the proposals might be open to challenge under the European convention on human rights. The application of the convention continues to impact on the criminal justice system, as is demonstrated by yesterday's decision on stopping out. There is no doubt that there will be a challenge to the order for lifelong restriction. The offenders whom such measures are designed to deal with are often extremely resourceful and use the system to their own ends. I sincerely hope that every effort has been made to ensure that the proposals are completely robust in relation to ECHR compliance.

While some commentators believe that there will be ECHR problems, I note that Professor Gane from the University of Aberdeen, who has expertise in the ECHR, served on the MacLean committee and believes that the proposals are compatible with the convention. The key will be watertight risk assessment, bearing in mind the fact that the orders are a continuation of criminal cases. We must consider risk assessment carefully if we are to stay well within the boundaries of the ECHR. The proposals will be challenged—probably sooner rather than later—but I do not believe that such challenges will be successful if the correct statutory powers and guidelines are put in place.

Executive sources have been reported as saying that ministers hope to use satellite technology to track offenders. I may be wrong, but I presume that that refers to electronic tagging, about which the Executive has only just made an announcement. I would be interested to learn whether the Executive has envisaged a time scale for rolling out the electronic tagging proposals, as any reference to time scale was omitted from the Executive's press release.

The debate gets to the heart of what we want our justice system to be about: appropriate punishment for crimes, protection of the public and rehabilitation of offenders. None of those targets

has been adequately addressed for the classification of offenders that we are discussing today. The implementation of the MacLean committee recommendations gives us the opportunity to meet those targets. That is why the SNP will support the Executive's motion.

15:44

Gordon Jackson (Glasgow Govan) (Lab): It will come as no surprise to members to learn that I, too, welcome unreservedly the contents of the white paper. I have also been pleased to hear a degree of unanimity on the matter. I am particularly glad that Roseanna Cunningham and the nationalists have not lodged an amendment to the motion, although that does not mean to say that they have not been critical occasionally. On this occasion, it is appropriate that they did not lodge an amendment but are simply commending what is happening.

I am sorry that Phil Gallie lodged an amendment. He largely welcomed what is happening, but he could not simply commend it: he could not quite resist the temptation to go back over the old ground of wanting to lock people up for longer. That is a wee bit ironic, as the Executive is ensuring that people who are a danger to the public will not be released back into society. We all commend that.

On a personal level, I am delighted by what is happening. I am pleased that we are considering the subject at all. At long last, we are getting to grips with certain important issues. For a long time, penal justice—the way in which we treat our offenders and run our prison system—has been ignored. Successive Governments have swept the issue under the carpet. As I have—perhaps cynically—suggested, there have not been a great many votes in how we deal with that sort of thing, but we are now coming to grips with it.

In the past, judges were able only to lock up and let out—society locked offenders up for a period and then, at the end of it, opened the door and they were back into society. Time and again, I have come across cases in which reports were prepared suggesting that some kind of treatment was needed, but the judge—whether naively or cynically, I was never sure—would say, “They will get it in the jail”. We all knew full well that there was not a snowball's chance that they would get anything in the jail other than their three meals a day and release at the end of it.

The reality is that we were doing nothing for society. During the lock-up period, we were not helping the individual. Therefore, we were not helping the body corporate and, when we let them out, we were certainly not doing anything to protect society. In the past, that was particularly

true for sexual offenders. As the MacLean report tells us, many of the people who commit serious violent offences have a mental health problem. In the past, there were only two options: they were either put in a regime such as Carstairs—which is an excellent institution in its way—or they went to the jail. Forensic psychiatrists would often say that they were pulling their hair out at the total lack of imagination and available options.

We are now making real progress. Reports have been produced by the MacLean committee, the Millan committee and Lady Cosgrove's committee. Most important, we are now having a cold, careful and unemotional look at how we deal with such offenders and how we manage risk. A great deal of nonsense is talked about risk and there can be a great deal of scaremongering. It is important that we look sensibly at the risk to the public, without exaggerating or overstating it. On the other hand, we need to acknowledge and deal with it.

Earlier today, I read again the remit of the MacLean committee:

“to consider whether the current legislative framework ... provides the courts with an appropriate range of options”.

Roseanna Cunningham made a similar point in her summary—she saw me looking quizzically at her, which was because I was not quite sure what she meant. I am up for anything that increases our range of options. The MacLean committee was instructed

“to compare practice, diagnosis and treatment with that elsewhere”.

Our practice in Scotland might not always be the best and there might be other places from which we could learn. The MacLean committee was also instructed to build on current expertise and research to inform the development of the process. To me, that sounds marvellous although, to others, it might sound quite normal. For many years, we have had a system that simply ignored all that, but we are now saying that we will look at international practice to consider how things should best be done. We are going to tackle the problems.

Were you signalling to me to wind up, Presiding Officer?

The Deputy Presiding Officer: No.

Gordon Jackson: I am very sorry, but I thought I got a wee look.

I always like to add a wee “but” just for the sake of it—old habits die hard. The white paper is a start, but I await the details from the Executive such as the statutory criteria for the making of lifelong orders. When we get to the small print, we will have some interesting debates.

I am conscious that we will need resources—I

have no doubt that they are available—to set up the risk management authority and for the formal risk assessment, but resources will be needed for other things. MacLean and the white paper say that there will be more use of mental health disposals and that the hospital direction is to be used for those for whom it is appropriate. That will cost money.

On page 33 of the white paper, I read not only the idea of locking people up in Carstairs and jail, but the principles that mentally disordered offenders should be cared for

“As far as possible in the community rather than in institutional settings; ... Under conditions of no greater security than is justified; ... In such a way as to maximise rehabilitation; and ... As near as possible to their own homes”.

Those are excellent values; I like them all, but I am under no illusions. They will cost money. It is to be hoped—I have no reason to doubt it—that we will be able to put all those values into day-to-day practice.

We need a joined-up system—and not just in this area. One of the great things about the MacLean report is that it deals with the need for joined-up systems for assessment. The risk management authority is an example of that, but I sometimes think that we need joined-up justice in a broader sense. As I have said, that will cost money. I will not dwell on slopping out, but dealing with that will cost money. The drugs courts and the programme of drugs rehabilitation will cost money. Then we have my personal bee in the bonnet, which is that we have far too many people in jail. We should consider more imaginative ways of dealing with some people who are in jail. We cannot separate those issues. Someone may say, “What has the way in which we deal with so-called trivial offenders to do with today’s debate?” It has to do with a joined-up strategic approach to the justice system.

MacLean says at one point that different problems need different solutions. That is right. We need to work out how we will spend our money on the sort of matters that are in the white paper. At the same time, we need to work out where that money will come from. We can save money by changing some of the things that we do with minor offenders.

This is a great start. If we keep the white paper as part of a strategic analysis of joined-up government, it will be excellent. I have no hesitation in commending it to the chamber.

The Deputy Presiding Officer: For Mr Jackson’s information, he will know when I am winding him up.

15:53

Pauline McNeill (Glasgow Kelvin) (Lab): The debate has always been emotive and controversial. It concerns the most difficult offenders in our society. The debate is about creating safe communities. Members of our communities must be able to have confidence in the criminal justice system. They have not always had that confidence. They also expect the system to protect them and their children. For me, that is what the MacLean report and the panel chaired by Lady Cosgrove are all about.

Scotland has high standards of criminal justice. Ensuring that those standards are the same throughout the system is what the MacLean and Cosgrove reports are about. The reports give us properly substantiated research to assist us in our assessment of what is real harm.

As Gordon Jackson said, many criminologists in Scotland have long argued that we have abandoned the rehabilitation approach in Scottish prisons. The debate allows us to refocus on rehabilitation.

I would like to talk about sexual offenders. Along with colleagues on the Justice 2 Committee, I visited HM Prison Barlinnie and the hall in which sex offenders are kept. We did not really get a sense of what was going on. However, we have a sense of the work that is being done in Scottish prisons and of the need for a closer look at training programmes—for staff in particular. The establishment of a new risk management authority is crucial. Sex offenders often minimise their offending and its effect on their victims. Many have complicated needs. Offenders are often highly manipulative, which means that we need expertise in the system. I am alarmed at what has been drawn out by Lady Cosgrove’s panel on reducing the risk.

The survey of local authorities that was commissioned to gather information about the availability of structured personal change programmes showed that seven local authorities did not respond, and six provided no specific sex offender programmes. Only 50 per cent of criminal justice social workers were required to undertake additional training, the length of which varied from three to nine days. A potentially dangerous situation can arise when inexperienced or untrained social workers with limited experience of supervision manage high-risk offenders. That is why the MacLean report is adamant about having the right kind of training and developing the right kind of expertise.

The report levelled some criticism at the Scottish Prison Service about its training inadequacies—the SPS says that its training has improved—but it must be noted that, until now, there has been no

framework for quality risk management and training and that the SPS has been delivering the STOP 2000 programme at Peterhead successfully. Prior to the establishment of the Parliament, there was no focus on prisons. I commend the work of the SPS.

Early intervention is highlighted in the report and must be afforded importance. It is a difficult issue to address, because it is not clear how to identify the early stages of inappropriate behaviour and translate that knowledge into practical action. It is estimated that 30 per cent of all sexual offences are committed by young men under the age of 21 and we know that sexual offending starts in adolescence. We can do something about that, so we must think about early intervention.

I welcome the establishment of the risk management authority. It is a radical step in establishing a standards framework, but we must examine in some detail the powers that we will give to the authority, and consider how it will link with the rest of the criminal justice system. We must ensure that the new authority fits in properly; if it does not, it will create tension with other agencies. I am unsure about the risk management authority's powers to direct agencies to comply with standards, and I am unsure about whether it should make recommendations on the funding of other agencies, given our democratic role to examine the funding of agencies.

This is a good day for criminal justice and for anyone with an interest in dealing with serious offenders and the approach to rehabilitation.

15:57

Lord James Douglas-Hamilton (Lothians)
(Con): Although the number of members in the chamber is somewhat depleted, there have been some extremely good speeches. Pauline McNeill was right to stress the importance of social workers, who do a great deal to minimise reoffending. I welcome the publication of the white paper and the proposal to create the new risk management authority, which will assist the parole board in determining how best to protect the public. The protection of the public should at all times be the paramount principle and I am glad that the Administration is giving it much higher priority. I cannot help but reflect that the Minister for Justice will hand over responsibilities to the new authority, but it is refreshing that he will do so in a way that will reassure and protect our citizens.

We welcome Lord MacLean's report, which was published after a great deal of consultation, and which will make our countrymen and countrywomen better protected. However, had certain elements of the Crime and Punishment (Scotland) Act 1997 relating to the early release of

prisoners, minimum mandatory sentencing and imprisonment for life for certain offences been put into operation, a considerable amount of risk would have been eliminated.

Nonetheless, that does not alter the reality that Lord MacLean has contributed a great service to Scotland. He correctly diagnosed the problem and one of his key points was that judges, in sentencing offenders who might pose a high risk, do not have the systematic risk assessment information that they require. It was also made clear that offenders who have mental disorders are not in every case being given a sentence or disposal that reflects the underlying risk to the public. Lord MacLean advocated a central body that would act as a repository of information, guidance and standards, and he called for co-operation among the statutory, voluntary and private sector agencies to reduce risk.

He was absolutely right to argue for research from the risk management authority, and for it to set consistent standards and to reduce risk. Research reveals the truth, and it is always of assistance to those who are in positions of authority to know the truth and nothing but the truth.

It is right that the authority should adopt best practice on whether and when dangerous and potentially dangerous prisoners should be released, and on the long-term arrangements for such prisoners' supervision that should be put in place. It is also right that the order for lifelong restriction is a disposal that is, when necessary, readily available to the courts and that an offender can challenge the risk assessment, as described in the white paper.

I was glad to read in the document that,

"At the sentencing hearing, it will be for the Crown to establish, on the balance of probabilities, that the statutory criteria for an Order for Lifelong Restriction are met."

The guilt or innocence of the accused should be proved beyond reasonable doubt, but when a conviction is made, the disposal should be decided on the balance of probabilities, because that will give the public more protection.

Is the Minister for Justice satisfied that appropriate arrangements will exist in all cases for the supervision of Scotland-domiciled people who commit a killing abroad and who are then returned to this country and continue to represent a potential danger to the community? Perhaps he can tell the Parliament whether he is in touch with United Kingdom ministers on that issue, because that problem might relate to reserved matters and involve complex issues.

Will the Minister for Justice assure us that a mentally ill person who has committed a terrible act of violence—possibly a killing—will be held in

secure accommodation while such risk remains, and that such people will be released only subject to appropriate supervision requirements? Many years ago, a killing was committed by an individual who was unfit to plead. In later years, that person was not subject to recall after release. I hope that the minister will address that matter.

Gordon Jackson was right to call for the necessary funds not only to implement the white paper, but to deal with degrading circumstances such as slopping out. That was to have been dealt with by £13 million that was diverted. I hope that the minister will ensure that the matter is given appropriate priority, considering the recent relevant case.

I am glad to say how much the Conservatives welcome the paper on serious violent and sexual offenders. We look forward greatly to the minister's response on the speed of implementation.

16:02

Kay Ullrich (West of Scotland) (SNP): As many members know, in a previous existence, I spent many years working with victims of violent and sexual offending and with perpetrators of those awful crimes. To understand both the mindset of those who sexually abuse and the findings of the MacLean report, it is necessary to acknowledge that sexual offenders have the innate ability to minimise and rationalise their horrendous crimes.

I will give members a few examples from my professional experience. A man was found guilty of eight years of sexual abuse of his daughter. On the night when I arrived to remove his children from his home, he said to me as I left the house,

"I'll have you know she gied it to me".

The little girl was 10 years old when he first forced himself on her.

What about the 50-year-old who had a catalogue of previous convictions for lewd behaviour and indecent assault? His explanation for his continued abuse of a neighbour's six-year-old child was that he was trying to comfort the child. A 19-year-old who raped the 10-month-old—yes, 10 months old—daughter of his girlfriend told me, when I was compiling a report:

"It wasn't me, it was the drugs".

He said that the drugs made him do it. I had to witness that baby's injuries as part of my job. I still wake up in the middle of the night with a picture of the injuries and the pain that he inflicted on that baby.

Because of those experiences, I am especially pleased with the emphasis that the MacLean

report places on risk assessments and the need for such assessments to be structured and based on the best available evidence. For too long, criminal justice social workers have been denied access to much of the information that is required to predict risk.

At the present time, criminal justice social workers usually have access only to the records of the Scottish Criminal Records Office. Those records merely list previous convictions which, as often as not, are the result of plea bargaining. Those records, together with offenders' tendency to minimise their behaviour, make less than adequate bases on which to assess risk.

Will the minister assure me that he will take the necessary steps to ensure that those who will compile risk assessments will have access to police records and to original complaints or indictments? That would allow assessments to be based on historical factors, rather than on the sanitised SCRO versions—many of which, as I said, are the result of plea bargaining.

I welcome the Executive's embracing of the MacLean report. However, like other members, I must return to the problem that is faced by criminal justice social workers as they endeavour to undertake their duties to the highest possible standards; lack of resources and insufficient funding. In his summation, will the minister assure members that, when the new proposals come into force, they will not be constrained by lack of resources and insufficient funding?

16:06

Donald Gorrie (Central Scotland) (LD): I would like to focus on one aspect of the excellent white paper. The paper tries to fulfil the recommendations of the MacLean committee and, on the technical side, it is as good as it can be.

However, such matters are not a precise science and mistakes will always happen. It is important that the Executive goes out of its way to explain matters to the public better than has been managed in the past. Public opinion is an important factor in getting support for the legal system. In the outcry over the Bulger affair, we have seen how issues can take a great hold of the media and the public.

Public opinion is sensitive in cases that concern mental disorder and sexual crimes. People are not well-informed: that is the case in particular on the subject of mental disorder, which is feared much more than it should be. The public probably thinks that members in the chamber are mentally disordered. I say that to illustrate that one can be mentally disordered and not be a danger to anyone. I hope that that is the case with us.

Public opinion is a critical area and I urge ministers to be thorough in their explanations of this subject to the public. Every now and then there will be a casualty—somebody who is under supervision but not completely controlled—who does something harmful. The public would rightly be outraged at that.

I welcome the research that has been undertaken. We should also carry out research into public attitudes in other countries, so that we can learn from better examples. Other countries might be able to show us how to persuade the public that we are doing the right thing. Justice must not only be done; it must be seen to be done.

Issues arise around borderline cases because, despite the appeals system, the public might feel that somebody should be in the system who is not, and vice versa. The public might also feel that it is right for people who are a danger to be kept away from the public. However, that can lead to a more severe package of measures for a person who is considered more dangerous, but who has committed a lesser crime than somebody who has committed a bigger crime but who is not considered so dangerous to the public. That might offend the public's sense of fair play.

Finally, I endorse almost everything that Gordon Jackson said, especially that we should have a more imaginative attitude. We should not only lock people up; we should use all the resources of society to control, improve and bring back into circulation as decent citizens those who are capable of such actions. This is a good start in a particular area of our legal activity and I very much welcome it.

16:10

Dr Richard Simpson (Ochil) (Lab): I commend the Executive for the process so far of developing a modern approach to the difficult issue of serious violent and sexual offenders.

The Minister for Justice has outlined the principles that underlie the white paper and he stressed that the protection of public safety is paramount. However, the white paper attempts to combine that with a humane approach and, where appropriate, with treatment. The response to the MacLean committee and the consultation process is to be commended.

I want to talk mainly about people who have mental disorders. There are difficulties in integrating the Millan report, the Adults with Incapacity (Scotland) Act 2000 and the MacLean recommendations. The principles that are outlined in paragraph 12 of chapter 3 of the white paper are to be welcomed. They stress public safety but also, as the Adults with Incapacity (Scotland) Act 2000 does in another context, that public safety

should be achieved through offenders' placement in the least restrictive settings. However, I have some reservations about the last element, which is that offenders should be managed

"As near as possible to their own homes or families if they have them."

That will not always be appropriate and I assume that it will be examined closely as part of the risk management.

The white paper correctly separates different types of mental disorder. Mental illness might be continuing, severe or limited. In this, as in all cases of high risk, the addition of a risk management assessment to a review of the illness and its effects will help to determine the appropriate disposal. The guidance that is mentioned in the paper on seeking to increase interim hospital orders is welcome and should help to achieve more appropriate disposals. Gordon Jackson referred to the fact that, with the white paper, we now have considerably more options. Hospital direction, subsequent transfer to prison and the new orders for lifelong restriction build on what has gone before and provide options that should allow more appropriate management. However, that will need to be integrated with the response on compulsory treatment orders in the Millan report, which is a matter for considerable discussion. We will come to that.

People who have personality disorders are the most difficult group to prescribe for. As we saw during the passage of the Mental Health (Public Safety and Appeals) (Scotland) Act 1999, tension exists between psychiatric practice and legal problems. In supporting that bill, Gordon Jackson and I expressed concerns about bringing personality disorder within the context of mental disorder. We will return to that debate, too. The white paper uses a telling phrase in paragraph 5 of chapter 3, in which it says:

"Finally, we will work towards addressing the difficult problems of personality disorders and their links to offending."

That is a difficult area.

The Executive states in other paragraphs, for example in paragraph 17 of chapter 3, its aspiration to provide a "robust system" for treatment. However, will such treatment actually happen within the prison service? Sexual offenders are treated well at Peterhead prison, which is mentioned approvingly in Lady Cosgrove's report. However, it is my experience of other prisons that, notwithstanding some of the new measures that are being introduced, we are a long way from adequately training people in the prison sector. I have grave doubts that we will be able to manage the problem appropriately.

I also have concerns about sexual offenders

whose risk assessments indicate medium risk at present, but who are either recidivists or show an escalating pattern of behaviour. Will the risk management plans deal effectively with such problems?

When can we expect a response to the Millan committee's request for a serious review of learning disability? Finally, I welcome the commitment to research. I hope that the Executive will ensure that the new authority will take part in UK studies as well as dealing with Scottish studies.

I commend the Executive's white paper. It is a model paper that meets the needs of Scotland in a modern context.

16:15

Mr Gil Paterson (Central Scotland) (SNP):

Like many members, I very much welcome the recommendations in the MacLean report and I thank the Executive for accepting them. The MacLean report will ensure that serious violent and sexual offenders are adequately monitored and that the risks that they pose to the public are significantly reduced. Although the report will be relevant only to a small number of offenders, we all know that it takes only a few men—we are talking mainly about men—to do an awful lot of damage to an awful lot of women and children. The report is therefore significant.

To enhance the MacLean report, the Executive should examine a specific matter. As convener of the cross-party group on men's violence against women and children, I invited ECPPAT—End Child Prostitution, Pornography and Trafficking—to give a presentation. I have spoken to ECPPAT representatives regarding legislation on sex offenders. Their main concerns are about convicted offenders who travel abroad, and about UK nationals and residents who have overseas convictions and who might fall through loopholes.

During their campaign, ECPPAT representatives made it perfectly clear to me and to the cross-party group that they felt that the work that they were doing was being side-tracked or forgotten about in Westminster. However, after coming to the Scottish Parliament, talking to many MSPs and holding a press conference, they felt that a new impetus had been given to their campaign. They wanted me to congratulate members of the Scottish Parliament, because they had come to the conclusion that, if Westminster did not act, Holyrood certainly would.

Most of what ECPPAT had campaigned for came into force on 1 June 2001. Now, sex offenders who travel abroad must notify the authorities about the country to which they are travelling, their point of arrival, their

accommodation arrangements for the first night's overseas stay and their departure date. Of course, some of us would like to have notification of addresses for the duration of such people's time abroad, but that is a matter for another day and another time.

There is a loophole; UK nationals and residents who have overseas convictions are not covered by the MacLean report. I appreciate that that issue is partially covered in the Cosgrove report "Reducing the Risk: Improving the response to sex offending", and I hope that the MacLean and Cosgrove reports can be dovetailed in a fashion that will take care of the issue that I am outlining. A UK national or resident who has committed a string of sexual convictions abroad is at present immune to the new notification requirements and would still be immune if we were to implement the MacLean recommendations. Some who fit into the category of having committed crimes abroad are not included. If we are to reduce the risk of reoffending, we must include all those who are at risk of reoffending, and not just those who offend in this country.

I conclude by pleading with the minister to take on board my concerns. At the same time, however, I congratulate the Executive on introducing the white paper. I wish ministers every success in implementing it.

16:19

Bill Aitken (Glasgow) (Con): Sentencing is always a difficult issue, particularly when the crimes for which a sentence is being imposed are especially serious and sometimes horrific. The essential component of sentencing should be that there is punishment and retribution. There should be a deterrent aspect and the public should be protected.

It is indeed pleasing that the report recognises the special considerations that should apply to questions of public safety and public interest. Despite the fact that the Conservatives have lodged an amendment to the motion, we welcome the white paper's principles in general and recognise the considerable knowledge, research and input into the MacLean report, which is an excellent document. The research is extremely interesting in going furth of these shores to the United States and Europe. A careful and close examination was made of the way in which offenders are dealt with overseas, from which lessons can undoubtedly be learned. Risk assessment and training are vital, as James Douglas-Hamilton recognised. It is absolutely vital that research should as well-financed and thorough as possible.

Recommendation 5 of the MacLean report

proposes the establishment of a risk management authority. That is rather interesting. Despite Jim Wallace's comments a few weeks ago, the recommendation does not seem to be a great vote of confidence in the Parole Board, as it calls into question the competence of the board in dealing with early prisoner release and suggests that a new agency should be set up for that purpose.

Paragraph 28 of chapter 3 of the white paper highlights a point that has frequently been made in debates on various subjects. Things must be run in a joined-up way. Prison authorities and authorities that govern mental hospitals must speak to council housing departments and social work departments. If the recommendations are to work, it is vital that there is joined-up thinking. I hope that another member will make that point to the Executive when a minister returns to the chamber.

Recommendation 12 proposes an order for lifelong restriction based on a risk assessment order. Roseanna Cunningham was correct to point out that there could be dangers in relation to ECHR compliance. I believe that safeguards are in place in respect of the accused and that there should be no difficulty with the bill in respect of any appeal under ECHR legislation.

We are also fortunate in having some case law in *O'Neill v Her Majesty's Advocate*, which covers the procedures involved and any appeal that might be made.

Presiding Officer, I trust that neither you nor the diminishing number of members on the Executive benches will take issue with our lodging the amendment, given that the Executive has failed to recognise that the provisions of the Crime and Punishment (Scotland) Act 1997 would have dealt with these matters.

I see little point in continuing. No one from the Executive is present, so I wonder whether the debate is futile. The Executive is certainly totally discourteous.

Roseanna Cunningham: On a point of order, Presiding Officer. I realise that this is a matter of convention, but does the fact that the Executive front benches are entirely empty represent an appropriate way for the Executive to behave, even given that we are mostly in agreement on this issue?

The Deputy Presiding Officer (Mr George Reid): It is not for me to comment. It is a convention for ministers normally to be present during a debate and I am sure that civil servants or Government whips will attend to that fairly quickly. In fact, the minister has just arrived.

16:24

Elaine Smith (Coatbridge and Chryston) (Lab): The Executive should be congratulated on bringing forward the white paper in line with the commitment in the programme for government and on accepting all the main recommendations in the MacLean report.

As the minister said, serious violent and sexual offenders are a small but very high-risk group of offenders. They pose a risk to public safety and that risk must be assessed and managed. However, it is important that the public debate on this issue is not conducted with an underlying hang-them-and-flog-them mentality. Individual human and civil rights must be considered. A careful balance must be struck between the rights of individuals and those of the community.

The issue must be approached with the premise that ensuring public safety and providing protection to our communities are paramount. On the whole, the MacLean report takes that approach. If we do not protect our communities, we run the risk that individuals will become involved in vigilante action. Although such action may stem from real concerns, individuals cannot take on the responsibility for community protection. The law and public agencies have the legitimate responsibility for community safety, although they must work with communities to discharge that responsibility in appropriate and effective ways.

To put the white paper into perspective, it is helpful to reflect on the role of custodial sentences. First, there is the punishment role—society and victims expect retribution for crimes. The second role is community safety—the perpetrator must be removed from society so as not to pose further risk to others. The third role is rehabilitation—the offender can reflect on their actions and assistance can be provided to allow them to return to the community. That must be dependent on an assessment of the offender's attitude to the crime and the extent to which they take responsibility for it and feel genuine remorse. The report's recommendations on risk management assessment will greatly assist in decisions about whether someone can be safely rehabilitated, without further risk to the public.

I welcome most of the recommendations, but I want to focus on specific issues in more detail. In paragraph 21 of chapter 2, the white paper states that

"unproven allegations of criminal behaviour will be taken into account, as will the fact that the offender had been prosecuted for and acquitted of offences in the past".

I am concerned about that, as our legal system is based on the principle that a person is innocent until proven guilty. I hope that, when the minister

sums up, he will tell us why that is necessary and whether it conflicts with the underlying principles of our justice system. Is it a vital part of risk assessment and management? Will it contravene human rights conventions at United Nations or European level?

Like Dr Simpson, I am concerned about the approach to those with mental disorders. I am uncomfortable with the fact that mental illness, learning disability and personality disorders are put together in the term "mental disorder". However, I note that the Executive says that it is not insensitive to the different needs of those different groups. I would like to hear from the minister what further action is to be taken to treat those groups differently.

Like Gordon Jackson, I expect that some of the proposals will have funding implications for the health service and the Scottish Prison Service. Will the minister indicate whether that has been recognised?

I caution that being tough on crime and its causes should not mean putting people in prison and keeping them there merely to appease the public. However, if offenders are judged to pose a risk, they must be detained for life if that is appropriate. We all know of horrendous cases in which, after being released, someone committed a similar heinous crime, that has brought suffering and misery to more families and communities.

Overall, the white paper is to be welcomed for its aim of providing public protection. I would be grateful for a response from the minister to the points that I have raised.

16:28

Stewart Stevenson (Banff and Buchan) (SNP): Like Kay Ullrich, I bring personal experience to the debate, as I am a former psychiatric nurse who worked in a locked ward. I was 17 years old at the time; it was quite an experience. We had murderers and sex offenders among our patients.

I also speak as the member with a world-class sex offenders unit—at Peterhead prison—in his constituency. Members will recall Alex Salmond's motion in January congratulating Peterhead prison on its success; 67 members, representing all seven political opinions in the Parliament, signed the motion in support—that is a majority of the Parliament.

I welcome the fact that risk assessment is being moved to centre stage. It is especially important that that will be research-based. The empirical approach of the past has been discredited. The white paper addresses that issue.

Sex offenders present a particular challenge.

Paedophiles are especially plausible and devious and are often seen as being model prisoners. Disconnected from the object of their attentions, they might present a misleading picture to parole boards and others.

Gordon Jackson says that we might not always be doing it best. I have some good news for him and for Pauline McNeill, who had kind words for Peterhead. At a recent site accreditation carried out by an external panel of academics, the chairman remarked:

"Peterhead is now the benchmark against which all other prisons will be measured."

The case histories cited by Kay Ullrich indicate why working with sex offenders is not the first option for many in the Prison Service. However, the holistic approach taken at Peterhead is impressive to read about and even more impressive to see, as I have done. Every member of staff—from cleaner to prison officer—whom one meets can explain their mission and articulate their role within the sexual offenders unit; they stand comparison with what happens under the very best professional change management programmes in industry and commerce. I regret saying that, because the staff might take that other option if we do not remove the unhelpful uncertainty about Peterhead's future. The institution is already well placed to respond to the white paper's requirements and it has almost everything that it needs to work with an external risk assessment process.

I thank Richard Simpson for his kind words about Peterhead, as I could thank so many other members. I commend the efforts of Peterhead staff and management and take this opportunity to urge the minister to reward their success by assuring their future.

16:31

Robert Brown (Glasgow) (LD): In this debate, we have seen the Scottish Parliament at its best. There is a kind of seminar atmosphere about the proceedings. I mean that in the highest sense: the debate has been considerate, reasoned and knowledgeable and it has added significantly to the sum of human knowledge—certainly to the sum of my knowledge—on this matter.

It is appropriate that the Scottish Parliament should be at its best in dealing with an issue of Scots law, which is a system that has traditionally been—and is intended to be—founded on principle. Much of what Jim Wallace and other members have said today shows a striving towards the principles that should apply in this area.

Principles are fine things, but behind them lie many tales of tragedy, difficulty and personal

disaster. Elaine Smith and Donald Gorrie were correct to point out that we must consider both sides of the coin and that a balance must ultimately be struck. There is huge sympathy for the victims of crime. However, although many people found the Bulger tragedy, for example, an inexplicable and incomprehensible crime with nasty overtones, the issue of the people who perpetrate such crimes is by no means straightforward. The Bulger case is again a good example, as it involves two young boys who have inexplicably carried out horrific crimes and raises the difficult questions of what should be done with them as they reach adulthood. The shadow of that debate lies over today's proceedings.

The mark of a civilised society is how it deals with people, particularly those with mental health problems, who have committed significant crimes. However, as members have said repeatedly, it is the first duty of the state to protect the public against such crimes. Again, the balance that is struck between both aspects is important.

To those of us with some experience of criminal law—mine is a little historic at the moment—phrases such as “order for lifelong restriction”, “risk management plan” and “risk management authority” appear like alien creatures in comparison with the more familiar social inquiry reports, for example. However, I dare say that those reports were seen as unfamiliar, different and novel when they were introduced and that the concepts that I have mentioned will become more familiar the more that we deal with them.

Gordon Jackson was right to put the debate into a wider context, because a number of issues lie behind it: the number of people in prison; the various causes of crime and how we tackle them; and the need to modernise the system of justice and sentencing in a way that deals with the realities. There is also the problem of the adequacy of the facilities that are available.

Many members have mentioned the need for training. With the best intentions in the world, if the training is not available—if it is not continuous, relevant and adequate at the point of contact—the proposals will fall through the mill. That is linked to the question of support, resources and facilities. I was pleased to hear Jim Wallace say that resources have been allocated to ensure the effective implementation of the proposals to set up the authority. Time will tell whether those resources are adequate; that is something of which there should be detailed examination.

This is an excellent report and an excellent move forward by the Executive. It owes something to the dynamics of the Scottish Parliament—the ability to focus on the issues and deal with them in detail, and the existence of an Executive that is led on this subject by a Liberal minister with a detailed

and expert knowledge of the matter.

16:36

Christine Grahame (South of Scotland) (SNP): The SNP welcomes these progressive proposals. We all hope that, once they are fleshed out, they will facilitate a balance between the release of those who have been convicted of serious violent and sexual offences—when they have served their time to a measure—and the absolute necessity of protecting the public within the framework of the requirements of the ECHR. I agree completely with Roseanna Cunningham that the test of whether something is ECHR-compliant comes when a case is raised, as it is case-based legislation. Article 5 of the ECHR, on the right to liberty and scrutiny, will undoubtedly be cited, as will article 11, on the freedom of assembly and association. Those are not absolute, but are designed to protect the public and their rights.

In 2000, there were 6,963 convictions for serious assault and 1,822 convictions for sexual assault. It is interesting to note that 89 per cent of those who had an index conviction for violence in 1995 were male, and that 34 per cent of them had a previous conviction for violence. The more violent convictions they had had, the more violent they were likely to become. We are using the proposals not only as a monitoring measure but as a protective and preventive measure.

There will be cost implications for the risk management authority, and it is made clear in recommendation 6 of the white paper that the risk management authority will have an operating budget. Gordon Jackson raised concerns about the pressures on the criminal justice budget due to existing issues, such as slopping out and the reduction in the number of women who are sent to prison. It is clear that there are competing priorities. Perhaps it is too early to know, but can the minister tell us what the resource implications might be for the operation of the risk management authority?

Recommendation 21 states that a risk assessment order would authorise

“the detention of the accused for up to 90 days, or up to 180 days on cause shown”.

That will have resource implications, as there are time limits. Perhaps, again, it is too early to know, but will those time limits be absolute and what will the resource implications be? Have they been costed?

As many members, including Kay Ullrich and Donald Gorrie, have said, the test will be the quality of the risk assessment with regard to not only whether the scheme operates appropriately, but whether it secures public confidence. It would take only one case to go wrong for the system that

we all welcome to be challenged.

Recommendation 13 states that the judge will set out

"the circumstances of the offence as narrated in court, which report should be preserved with the case papers for later use if required."

With regard to Kay Ullrich's point, it would be useful if the minister could clarify whether that is the kind of material that would be available to the social workers and those at a local level who prepare the risk assessment.

Recommendation 23 involves the making of the order for lifelong restriction. The test is on the balance of probabilities. There could be difficulties with that in that it is a criminal provision that is being continued and the usual evidential test is that something should be beyond reasonable doubt. I would like the minister to address how safe the Executive feels that level of test to be.

My party is interested in the detail of the proposal, which will be drawn out when the matter comes before a committee—and I hope that it comes before my committee. I am sure that there will be some interesting discussions that will help to make the proposal become effective and workable law, not just in the primary legislation but in the guidelines, which will be extremely important.

The Deputy Presiding Officer: We are falling slightly short of time. I may have to suspend business for two or three minutes before 5 o'clock. We shall see.

16:41

Mrs Lyndsay McIntosh (Central Scotland) (Con): I am mindful of your concern about the timing, Presiding Officer, and I will try to as brief as I can.

The Deputy Presiding Officer: The problem with the time is the other way round.

Mrs McIntosh: People have other places to go. I will not keep them any longer than I have to.

We broadly accept the MacLean report findings and recommendations and we welcome the Executive's commitment to implementing them. However, we feel that a significant degree of risk could have been eliminated if certain key parts of the Crime and Punishment (Scotland) Act 1997 had been implemented—for example, imprisonment for life, on further conviction, for certain offences; minimum mandatory sentencing for drugs trafficking; and the early release of prisoners.

We welcome the proposed risk management authority. Its task will be to examine and implement best practice in determining whether

such prisoners are released and what long-term supervision is put in place for them. A small number of people are likely to come under its remit but the sense of relief for victims of violent and sexual offenders will be immense. We can all join in welcoming this white paper.

The approach that has been taken calls into question the competency of the Parole Board for Scotland to deal with early prisoner release. The Minister for Justice has only recently underlined his confidence in the Parole Board to release criminals who have been convicted of murder and given life sentences. MacLean appears not to have the same level of confidence in the Parole Board when it comes to the early release of criminals who have committed lesser crimes.

Everything must be done to protect our communities from the menace of serious violent and sexual offenders. The measures contained in the white paper appear to be acceptable and, I hope, will go some way towards assuring the public that criminals who have carried out the most horrendous attacks will not re-enter our society without every measure being taken to protect it. However, restriction orders, tougher sentencing and earned remission were all included in the Crime and Punishment (Scotland) Act 1997. It would have saved a lot of time and effort and reassured many people if Labour had implemented those sections of the act.

When the Convention Rights (Compliance) (Scotland) Bill was going through the Scottish Parliament, we supported the extra elements of deterrence and transparency. It is vital that victims feel that they are protected and those measures will send a message to criminals that their actions will not be forgotten and that they will be constantly monitored. The extra sentence, therefore, provides security, punishment and deterrence.

Phil Gallie asked about the time scale for the bill. Perhaps the minister could address that in his summing-up.

Although the risk management authority is another quango, it is one that we welcome. I have already offered the Minister for Justice the use of a lighter to get his bonfire going, but I know that the Deputy Minister for Justice already has his own equipment in that department.

Phil Gallie raised a point, which was highlighted by Roseanna Cunningham and Elaine Smith, about the extent to which the detention in jail for the 90-day plus period was ECHR-compliant. Elaine Smith was fortunate that a Scottish Executive minister was present to hear her plea as that courtesy was not extended to everyone in the Parliament this afternoon.

Ms Cunningham picked up on two words that

can send terror down the back of any Conservative woman—John Cronin. We are well aware of the difficulties of that case.

I will pick up on the points that Gordon Jackson made regarding the MacLean committee, the Millan committee and Lady Cosgrove's committee. It is excellent that a range of options will be available to sentencers. Although I may agree with Gordon Jackson at times that there are too many people in prison, prison will always have to exist for the worst and most serious offenders. We will never get beyond that stage.

Pauline McNeill picked up on a comment about the visit that the Justice 2 Committee made to Barlinnie and the unit there that deals with sexual offenders. She also referred to the groundbreaking work that is being done in Peterhead, which is in Stewart Stevenson's constituency. The Conservatives welcome the advances that are being made there.

There was also comment from all parties about reasonable doubt versus balance of probabilities when determining release. I am grateful to Lord James Douglas-Hamilton for highlighting that point.

The most valuable contribution came from Kay Ullrich. Out of a period of long experience from the time before she came to the Parliament, she showed us just how devious and resourceful some offenders can be. That highlights a point that Richard Simpson made about his reservations about managing offenders near their homes. I, too, foresee difficulties in that context. Consider how close to home many offenders operate, as Mrs Ullrich showed.

My colleague Bill Aitken highlighted the lessons that can be learned from abroad and the amount and quality of research on which the MacLean report was based. We would be glad to see all the recommendations implemented. I submit that the motion, despite the amendment, will receive our support.

The Deputy Presiding Officer: Iain Gray will wind up for the Scottish Executive.

You have 14 minutes, minister. If you just want to take your allotted 10 minutes, I will stop for three minutes before 5 o'clock. It is up to you.

16:46

The Deputy Minister for Justice (Iain Gray): I am glad to have the opportunity today to discuss another aspect of the Scottish Executive's work that is aimed at protecting our communities. Managing the risk that offenders pose and safeguarding the public are about protecting our communities and are crucial in creating a safer Scotland—a Scotland in which our people feel

safer because they are safer.

Community safety links all the initiatives that have been touched on this afternoon. It also underscores other work that is being done, which will interact with the proposals in the white paper.

It is important that we remain aware that the work of improving community safety does not begin and end with our proposals for high-risk offenders—of whom, as Jim Wallace indicated, there is a relatively small number in any year—nor with the review of the Sex Offenders Act 1997. We also need to help people on the ground to act and act together to improve community safety.

That is why police forces and local councils, with our support, have set up local community safety partnerships throughout Scotland—indeed, in all 32 local authority areas. Those partnerships involve the public, private and voluntary sectors working together in tackling crime. From the grass roots to the high tariffs, all measures must work towards the safety and security of our people.

The debate has rightly focused on our new proposals for serious violent and sexual offenders, which we presented in our white paper that was published on 11 June. The proposals are comprehensive and innovative. One of the key innovations in the proposals is the new body that we propose to set up: the risk management authority. That is a new approach to assessing and managing risk. The RMA will exist to ensure that best practice is followed by every agency throughout Scotland.

A number of speakers have made the point that a large range of agencies throughout Scotland have a role to play in managing and minimising risk. That is the case. No longer can we accept a situation in which pockets of excellence are isolated throughout the country. More to the point, and as Pauline McNeill made clear, no longer can we tolerate gaps in practice in the field. The RMA will have the role of spreading best practice throughout the agencies and throughout Scotland.

The point has been made on various occasions that the risk management authority may feel that the agencies with which it is working or which it is advising have difficulty in delivering what is required of them because of problems with funding. The RMA will be able to advise and recommend to the Scottish Executive specific funding that might be required to be allocated to agencies with whom it works in order for it to deliver its responsibilities. The final decision on that funding will of course remain with Scottish Executive ministers.

In discussing the risk management authority, I would like to reassure one or two members, including Roseanna Cunningham, who spoke about the status of the RMA, specifically about

the fact that it will be a non-departmental public body, that we considered very carefully the question of whether there was any other way in which to deliver our proposals effectively.

The body of course has to be efficient and effective, and has to be independent. Believe me, following what the Minister for Finance and Local Government has announced on the matter, this is not a good time to argue for the setting-up of a new NDPB, unless it is the right thing to do. In the circumstances, we believe that that is the correct way to go.

On funding, which of course is required for the RMA to work, we have budgeted £3 million for the set-up and initial running costs of the RMA in 2002-03, and £5 million in the following year, within the justice budget.

The RMA will be able to provide advice and guidance whenever that is needed. When it comes to the highest-risk offenders, it will be required to ensure that the multi-agency risk management plans meet the best standards.

In response to Phil Gallie, it is true that the decision on release will lie with the Parole Board, which indeed holds that function for other categories of prisoner. That will parallel the arrangements for mandatory and discretionary life prisoners, and we believe that to be the fairest approach: it guarantees the offender's rights to a regular review of his or her detention while using the Parole Board's expertise to ensure public safety. As is the case with life prisoners, either the Parole Board or Scottish ministers can recall an order-for-lifelong-restriction prisoner for breach of conditions. If the offender is recalled, the Parole Board will have to be again satisfied that he or she does not pose a high risk, before it will consider re-releasing the offender.

Phil Gallie: Does it not undermine the whole principle of the RMA if the Parole Board can overrule it on such a basis? Surely, if the RMA has taken all the time and effort to assess a situation and prepare a plan, the Parole Board should be expected to take account of that.

Iain Gray: The two bodies will have different roles. The risk management authority's job is to ensure that the best possible assessment of potential risk can be made, and that the best advice can be given on the measures that may be required to manage that risk. It is right and proper that the judiciary decides whether that potential risk is an argument for a particular initial sentence—an order for lifelong restriction, or OLR, for example—and it is right that the Parole Board takes the final judgment on the balance between public safety and the level of risk, as assessed by the RMA. The role of the Parole Board is, I think, the right one. We are ensuring that the board's

role is underpinned by a much more rigorous, up-to-date assessment of risk. It is about making the quality of the Parole Board's decisions even better.

It is worth remembering that the other main element of our proposals is a sentence—the OLR. It is important to remember that it is a sentence, and that it is lifelong; it is only when the punishment part of the sentence is served, and if risk has sufficiently diminished, that the offender will be released from prison. It is in the community where an important element of the proposals will be seen at work.

The offender's risk management plan will have been drafted as soon as the offender starts his or her prison sentence, and it will travel with the offender into the community. Interventions that have been offered in prison, which are both vital and exemplary—I am thinking of those offered in Peterhead, as referred to by a number of speakers—can be continued and built upon. However, firm controls will be maintained and, should licence conditions be breached, the return to custody will be swift.

Phil Gallie said that in a previous consultation on electronic monitoring only he had expressed support for it. As I have already indicated to him, the consultation on our recent pilot produced more positive results. This morning I announced that we would develop the use of electronic monitoring. Restriction of liberty orders will be rolled out as a community sentence and provision will be made for allowing the imposition of monitoring as a condition for a probation order or a drug treatment and testing order. It will also be possible to use electronic monitoring as a condition of release from custody on licence. That links in with the MacLean committee's recommendations on the use of electronic monitoring.

All the measures that I have outlined require legislation. I assure members that that will be introduced at the earliest opportunity. I mean that genuinely. When we published the white paper, some press reports suggested that all violent sexual offenders would automatically be tagged. That is not what the white paper says. Tagging is one option, depending on specific risk factors. However, we plan to frame the provisions for electronic monitoring broadly so that they can encompass new developments, such as tracking the movements of an offender, should that become feasible in the future.

Some speakers expressed concerns about the compliance of our proposals with the European convention on human rights. The human rights of the offender must, of course, be protected. That is why we are introducing checks and balances at every stage. We would never place before the Parliament legislation that we felt was not

compliant with the ECHR. Indeed, we are not permitted to do that, as members know. I assure the Parliament that we are content that these proposals fully satisfy human rights requirements.

Concern has been expressed about the fact that the risk assessment will be able to include the facts of previous acquittals and allegations of criminality. However, presenting those facts is crucial to getting the most accurate picture of risk possible, which is in everyone's interests. The defence can challenge any part of the risk assessment that is brought before the court. That is one of the checks and balances to which I referred. When making a decision on sentencing, the sentencing judge will disregard any evidence that has been successfully challenged.

I assure James Douglas-Hamilton that we will require any offender who is mentally disordered and may, therefore, pose a high risk during the assessment period to be assessed by means of an interim hospital order before the court makes a final disposal. That assessment will be made in hospital, in secure conditions. It will cover both the mental state of offenders and the risk that they pose, and may last for up to a year.

The public needs protection from offenders who suffer from a mental disorder. Under our proposals it will be possible for such offenders to receive a hospital direction—and therefore any medical treatment that they need—but also to be made subject to an order for lifelong restriction. Once they have been treated, they will be transferred to prison to serve any remaining part of the punishment period. They will remain there until they are no longer high risk.

Finally, I turn to today's Tory amendment. I am glad that the Conservatives were able to find the generosity to leave in the motion's welcome for the white paper. Indeed, the contributions to the debate of Phil Gallie and other Tory speakers were reasoned and constructive. However, in general, the Tory amendment is rather backward looking. It smacks of an attempt to rerun some of the arguments that Tories used during the recent general election to frighten the electorate. That certainly worked: the electorate was so frightened of the Tories that it left them firmly buried in fourth place in Scotland.

The Crime and Punishment (Scotland) Act 1997 included some rushed provisions that were approved during the dog days of the previous Tory Government. By comparison—even Phil Gallie admitted this—the white paper that we are debating today is the result of rigorous and exhaustive work by the MacLean committee. It synthesises best practice from around the world with our criminal justice traditions. By setting punishment powers in open court, it ensures honesty in sentencing. Through the work of the

RMA and the Parole Board, the white paper offers the reassurance sought by the public that serious sexual and violent offenders will be dealt with justly and safely.

I commend the white paper to the Parliament.

Parliamentary Bureau Motion

17:00

The Presiding Officer (Sir David Steel): The next item of business is consideration of Parliamentary Bureau motion S1M-2047, in the name of Tom McCabe, on the designation of lead committees.

Motion moved,

That the Parliament agrees the following designation of Lead Committee—

the Justice 2 Committee to consider the draft International Criminal Court (Immunities and Privileges) Order 2001.—[*Mr Tom McCabe.*]

Decision Time

17:00

The Presiding Officer (Sir David Steel): We now come to decision time. The first question is, that amendment S1M-2041.1, in the name of Phil Gallie, which seeks to amend motion S1M-2041, in the name of Mr Jim Wallace, on serious violent and sexual offenders, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

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

AGAINST

Adam, Brian (North-East Scotland) (SNP)
Baillie, Jackie (Dumbarton) (Lab)
Barrie, Scott (Dunfermline West) (Lab)
Brankin, Rhona (Midlothian) (Lab)
Brown, Robert (Glasgow) (LD)
Butler, Bill (Glasgow Anniesland) (Lab)
Canavan, Dennis (Falkirk West)
Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Crawford, Bruce (Mid Scotland and Fife) (SNP)
Cunningham, Roseanna (Perth) (SNP)
Curran, Ms Margaret (Glasgow Baillieston) (Lab)
Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
Eadie, Helen (Dunfermline East) (Lab)
Elder, Dorothy-Grace (Glasgow) (SNP)
Ewing, Dr Winnie (Highlands and Islands) (SNP)
Ewing, Mrs Margaret (Moray) (SNP)
Fabiani, Linda (Central Scotland) (SNP)
Ferguson, Patricia (Glasgow Maryhill) (Lab)
Finnie, Ross (West of Scotland) (LD)
Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)
Gillon, Karen (Clydesdale) (Lab)
Godman, Trish (West Renfrewshire) (Lab)
Gorrie, Donald (Central Scotland) (LD)
Grahame, Christine (South of Scotland) (SNP)
Grant, Rhoda (Highlands and Islands) (Lab)
Gray, Iain (Edinburgh Pentlands) (Lab)
Henry, Hugh (Paisley South) (Lab)
Home Robertson, Mr John (East Lothian) (Lab)
Hughes, Janis (Glasgow Rutherglen) (Lab)
Hyslop, Fiona (Lothians) (SNP)
Ingram, Mr Adam (South of Scotland) (SNP)
Jackson, Gordon (Glasgow Govan) (Lab)
Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)
Kerr, Mr Andy (East Kilbride) (Lab)

Lamont, Johann (Glasgow Pollok) (Lab)
 Lochhead, Richard (North-East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 MacKay, Angus (Edinburgh South) (Lab)
 MacLean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 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)
 McGugan, Irene (North-East Scotland) (SNP)
 McLeod, Fiona (West of Scotland) (SNP)
 McMahon, Mr Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Oldfather, Irene (Cunninghame South) (Lab)
 Paterson, Mr Gil (Central Scotland) (SNP)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Quinan, Mr Lloyd (West of Scotland) (SNP)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Reid, Mr George (Mid Scotland and Fife) (SNP)
 Robison, Shona (North-East Scotland) (SNP)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Tavish (Shetland) (LD)
 Sheridan, Tommy (Glasgow) (SSP)
 Simpson, Dr Richard (Ochil) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North-East Fife) (LD)
 Smith, Mrs Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Thomson, Elaine (Aberdeen North) (Lab)
 Ullrich, Kay (West of Scotland) (SNP)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Andrew (Central Scotland) (SNP)

ABSTENTIONS

Harding, Mr Keith (Mid Scotland and Fife) (Con)

The Presiding Officer: The result of the division is: For 14, Against 90, Abstentions 1.

Amendment disagreed to.

The Presiding Officer: The second question is, that motion S1M-2041, in the name of Mr Jim Wallace, on serious violent and sexual offenders, be agreed to.

Motion agreed to.

That the Parliament welcomes the publication of the

Executive's White Paper on serious violent and sexual offenders, fulfilling the Programme for Government commitment to "review the law by 2001 in relation to sexual and violent offenders, including harassment and in particular stalking"; agrees that the public deserves to be protected from the highest risk offenders, and commends the Executive's proposals for a new sentencing, management and treatment regime for this small group of offenders as an important step in building a Scotland where people are safer and feel safer.

The Presiding Officer: The third question is, that motion S1M-2047, in the name of Mr Tom McCabe, on the designation of lead committees, be agreed to.

Motion agreed to.

That the Parliament agrees the following designation of Lead Committee—

the Justice 2 Committee to consider the draft International Criminal Court (Immunities and Privileges) Order 2001.

Lung Disease

The Presiding Officer (Sir David Steel): The final item of business today is a debate on motion S1M-1740, in the name of Michael Matheson, on lung disease in Scotland. It would be helpful if those members who wish to take part in the debate would indicate that now.

Motion debated,

That the Parliament notes the increased incidence of lung disease, in particular the rising number of women suffering from lung cancer; further notes the inconsistent way in which services are provided within the NHSIS for those who suffer from lung disease; recognises the need for greater research into lung disease in Scotland, much of which is presently funded by the British Lung Foundation; congratulates the British Lung Foundation on the work of its Breatheasy groups in providing support to those in local communities who suffer from lung disease, and acknowledges the need to give consideration to the formation of a national strategy to tackle lung disease in Scotland.

17:03

Michael Matheson (Central Scotland) (SNP): I begin by thanking the 36 or so members from all the main parties in the Parliament who took the time to support my motion. I also welcome representatives of the British Lung Foundation and of the Forth Valley Breathe Easy group, who have come to hear the debate and who have been instrumental in introducing the issue to the Parliament. They hope that the Parliament will address it.

When the late Princess of Wales was patron of the British Lung Foundation, she stated that breathing should be a pleasure, not a fight for life. However, 500,000 Scots are affected by lung disease. It touches all parts of society, from premature babies and children with asthma to employees with work-related lung disease and elderly people who suffer from emphysema and bronchitis. Every day, thousands of people in Scotland struggle with lung disease; it affects every aspect of their daily lives. Many members take for granted activities such as walking to the shop or car, or climbing the stairs in their home, but such so-called normal activities can leave thousands of Scots who have lung disease breathless and struggling to draw their next breath. The effect that lung disease can have upon an individual's quality of life is dramatic.

We have all experienced some type of breathing difficulty in our lives. Perhaps we have had a lung infection or an injury, or perhaps the wind has caught us and made our breathing difficult. It is only at such moments that we appreciate how much we value being able to breathe without great difficulty.

Although lung disease is predominantly a physical condition, we should in no way underestimate the psychological effect that it can have upon a sufferer. Alongside the physical limitations that I mentioned, loss of confidence and a feeling of isolation are common.

Scotland has a poor record on lung disease in comparison with many other European nations. If we include lung cancer in our definition of lung disease, Scotland's record is appalling. In some areas of Scotland, lung disease now kills more people than heart disease does.

In essence, lung cancer is an extreme form of lung disease and it is on the increase. Annually, about 4,500 people in Scotland are diagnosed with lung cancer. Of those diagnosed, fewer than 5 per cent will live longer than five years. Survival rates have shown little improvement in the past 20 or so years. If we compare the figures with those of other European countries, we see that the equivalent survival rate in other countries is in the region of 14 per cent.

Although I am sure that most of us would recognise that people survive longer in different countries for a variety of reasons, one of the most important factors is the ability to get access to the right treatment at the right time. One consultant from Falkirk royal infirmary highlighted to me the advances that have been made in the treatment of people who have lung cancer. Continuous hyperfractionated accelerated radiotherapy treatment—CHART—has been shown to improve considerably the survival rate among lung cancer sufferers. To date, the treatment is not available in Scotland, although it is readily available in many European and non-European countries.

I am sure that the minister will say that CHART can be considered within the Executive's proposed cancer plan, but given that the incidence of lung cancer in Scotland is so high and that it is coupled with a poor survival rate, why do we continually find ourselves trying to catch up with other European nations? Given our record, Scotland should, if anything, be at the forefront of developing new treatments and ensuring that they are implemented for those who suffer from lung cancer and other lung diseases in Scotland.

If we are to shake off our sick-man-of-Europe tag, we must recognise that lung cancer remains one of the most frequently diagnosed cancers among men in Scotland and that the rate of diagnosis among women is steadily increasing. Even the most recent statistics from the World Health Organisation show that our record is extremely poor in comparison with that of other countries. The latest figures show that the death rate for males per 100,000 is in the region of 94. In Ireland, the equivalent figure is about 53; in Finland, it is around 60; in England and Wales, it is

around 74.

The number of women in Scotland who die from lung cancer is even more concerning. The figure has tripled over the past 20 years alone. In Scotland, in the region of 63 women per 100,000 head of population die from lung cancer. In France, the figure is as low as 13; in Ireland, it is 28; in England and Wales, it is 41. I hope that the minister will take on board how poor Scotland's record on tackling lung cancer is. We need to be at the forefront of eradicating it.

We should also recognise that there are considerable inequalities in the service that is provided across the country. For example, the provision of oxygen to people who suffer from a lung disease can vary from one pharmacist to the next. The deposit that needs to be put down for the cylinder can vary. Service can also vary from one health board area to the next.

General practitioners prescribe only a standard size for the gas bottles that are used for oxygen because the Government's drug tariff only allows them to do that. However, patients who are dependent on oxygen often find that they run short of oxygen early on. If they go on a day trip or on holiday, they need to take a large supply of oxygen with them. One solution suggested by the Forth Valley Breathe Easy group is the provision of liquid oxygen, which lasts much longer and allows patients to have a better quality of life. I hope that the minister will consider drug tariffs, to allow general practitioners to prescribe liquid oxygen, especially for patients who are heavily dependent on oxygen as a result of their condition.

From one hospital trust to the next, there are variations in the provision of nebulisers: some will provide them, some will not; some will charge, some will not. In addition, few trusts in Scotland provide respiratory nurses. Those nurses can often add significantly to the quality of life of someone with lung disease, bridging the gap between GPs, the hospital and the patient. Respiratory nurses can play an important role, not only in improving patients' quality of life but—through early intervention in the home—in reducing admissions to hospital. To its credit, Forth Valley Primary Care NHS Trust has been one of the leading trusts in achieving that. It employs several respiratory nurses. The resultant improvement in the health of the local community has been significant. It is disappointing that many other trusts across Scotland have failed to follow suit.

Given the extent of lung disease in Scotland and the considerable variation in the quality of care and service, I believe that we require a national respiratory disease strategy. That would assist in ensuring that respiratory medicine is given sufficient priority and would allow for a better

quality of service across the country. If we are to tackle lung disease, a national strategy is required to ensure that we do so in a focused, determined, serious and concerted manner.

17:12

Cathy Peattie (Falkirk East) (Lab): I congratulate my colleague Michael Matheson on securing a debate on lung disease in Scotland. As an asthma sufferer, I have a particular interest in this area of health. That interest has led to my becoming convener of the cross-party group on asthma and a member of the National Asthma Campaign advisory committee.

Asthma is one of a number of respiratory conditions that, taken together, account for a large proportion of illness and of health service activity. Besides asthma and other allergies, many people suffer from bronchitis, emphysema and work-related diseases. The global resurgence of tuberculosis is also worrying.

Half a million Scots, from babies to pensioners, are affected by lung disease. To put it another way, on average, one member of every family has a lung condition. A total of 300,000 Scots have asthma—19 per cent of boys and 16 per cent of girls. GP consultations for asthma among young people between the ages of five and 14 are second only to consultations for sore throats and colds—which are more correctly called upper respiratory tract infections. More than 100 people every year die of asthma. Studies have found that, of every 1,000 children, 133 are on bronchodilators, 47 are on inhaled steroids, and three are admitted to hospital each year.

Although different respiratory conditions have their own particular needs, many people face problems that are common to a variety of conditions. Treatments can overlap. There is much to be gained from the development of a health service strategy to address the treatment of respiratory conditions, both collectively and individually. We need to ensure that health professionals work together to avoid duplication of effort or facilities, thereby ensuring the greatest possible benefits for patients.

Among the shared problems that affect patients are the limited availability of nebulisers—already mentioned by Michael Matheson—and the limited capacity for assessment and training in their use. It is not just a question of delivering nebulisers; people need to understand how to use them and they need support in using them. Nebulisers can make a huge difference to patients' quality of life.

There are other areas where there is common ground. Those include the provision of outreach workers, respiratory nurses and asthma nurses, who can help families to self-manage asthma and

who can help children to identify when an asthma attack might come on. They also include other aspects of community care, such as self-help initiatives and training for patients and relatives, to help them to understand the drugs and other treatment.

I am pleased to note that several organisations, including the National Asthma Campaign, the British Lung Foundation and Chest, Heart and Stroke Scotland, are working together to create a respiratory alliance to bring together major organisations that are active in the field. I ask the Deputy Minister for Health and Community Care to ensure that the Scottish health service matches that initiative by producing its own comprehensive strategy to guide the approach to respiratory conditions.

17:15

Mr David Davidson (North-East Scotland) (Con): I congratulate Michael Matheson on bringing an important subject to the attention of members this evening. In addition to the welcomes that he extended, I point out that there are officers from the National Asthma Campaign in the gallery. I will focus on asthma partly because, like Cathy Peattie, I have an interest in the subject because I am a minor sufferer myself and one of my children is ill with it on occasion. Asthma strikes regardless of age or activity.

I agree whole-heartedly with my colleagues about the need for a national strategy. One of the early questions that I asked when I was elected to the Parliament was about information on asthma trends that is held centrally, because the incidence of the condition is increasing. I was shocked to hear from the Minister for Health and Community Care that no statistics are held centrally. How can policy be developed if the centre has no idea about the developing problem? I have since been assured by the Minister for Health and Community Care that steps are being taken, but I do not know what they are. Perhaps the Deputy Minister for Health and Community Care will tell us tonight. We must have a national strategy. It must not be over-burdening and bureaucratic; it must have focus, because of the number of people who are involved, their misery and the cost to them.

Cathy Peattie, who is the joint convener of the cross-party group in the Scottish Parliament on asthma, of which I am a vice-convener, highlighted a number of serious issues. I welcome the formation of the respiratory alliance, and the fact that it has supported a member of staff to work with the National Asthma Campaign to research variations in care in Scotland, which I am concerned about.

I used to be an oxygen supplier when I worked

in community pharmacy. Michael Matheson highlighted the problems with the oxygen service, which is expensive and difficult to manage, but vital.

I am also concerned that the Arbutnott changes to funding in the health service will deprive certain health boards—for example, my local one in Grampian—of the ability to develop services. The National Asthma Campaign is producing a report, which I gather will be published over the summer. It is vital that we take it on board, because it is a valuable piece of work.

Another subject that I have raised in the past is guidance for school staff on how to manage medicines of all varieties, but particularly medicines for asthmatic children. I conducted a survey of the education authorities in the north-east, and found that there was no common line. In some areas the guidance was good and in others it was patchy. Staff have said that it is vital that they are given adequate training so that they can act as a parent—that is what they are during the school day—and look after children and know their individual cases and requirements. I look forward to the Deputy Minister for Health and Community Care telling us how guidance for schools will be rolled out, because I am worried about the lack of attention that that has been given.

I appreciate that other members wish to speak, so I will conclude. From my former life as a community pharmacist, I know that asthma is a badly understood difficulty. Most families come across it only when somebody is in deep trouble, perhaps because of another condition. Asthma is misunderstood in many ways. It is vital, if we are talking about inclusion, to give children the proper control that will allow them to participate in the things that young people want to do—for example, sport—and to ensure that they are screened early. In Scotland, not enough screening for respiratory conditions is done at an early age.

17:19

Dennis Canavan (Falkirk West): I, too, congratulate Michael Matheson on giving us the opportunity to debate this important subject. I fully support his motion and I pay tribute to the excellent work of the British Lung Foundation and its local organisation, Breathe Easy Forth Valley, which covers my constituency. Mr Henry McPake, chairperson of Breathe Easy Forth Valley, wrote to me earlier this year to request more Government or Executive funding for research into lung disease and for treatment of those who are affected by lung disease. Lung disease is the second biggest killer in this country and it affects the whole age range of the population, from childhood asthma to many lung diseases of later life, some of which are occupational.

Today, I received a message from the National Asthma Campaign Scotland, asking for support for a national strategy to tackle respiratory disease and for more research and higher standards of care throughout the country. Asthma affects more than 300,000 people in Scotland and was responsible for more than 120 deaths in 1998. About one in six Scottish children aged from two to 15 has asthma, and a recent international study of 12 countries showed that Scotland has the highest prevalence of children reporting asthma symptoms in the past 12 months. The Scottish Executive must take action to ensure that more research takes place and that better standards of care are provided for people who suffer from asthma and other lung problems.

We are relatively fortunate in the Falkirk area, because Falkirk royal infirmary has a pulmonary rehabilitation course for people who have lung disease. Three whole-time equivalent nursing posts were attached to the respiratory services and associated outreach services at Falkirk royal infirmary, but one post was recently withdrawn. Following complaints, I wrote to the Deputy Minister for Health and Community Care, and I was pleased to hear from him in a recent letter—which, coincidentally or otherwise, I received only today—that funding for another permanent full-time outreach nurse will be secured by the end of this month. I thank the deputy minister for that.

In an earlier reply to me, the deputy minister referred to a detailed change programme that would be announced later this year. Will he give details of that in his summing-up? I would also be grateful to hear what further funding will be available for research and treatment. In the long term, that could save money, because it would mean less hospitalisation. That makes good economic sense as well as good health sense.

Some lung diseases—I emphasise not all—are smoking-related. The UK Government has not yet named a date for introducing a bill to ban tobacco advertising. Will the Scottish Executive therefore set a good example by introducing now a bill to ban tobacco advertising? I have no doubt that such a ban would help to reduce the incidence of some forms of lung disease, including lung cancer. It would therefore help to save lives. The Scottish Executive must face up to its responsibilities.

17:23

Mr Kenneth Gibson (Glasgow) (SNP): I, too, warmly welcome the debate and I congratulate my colleague Michael Matheson on securing it.

Lung disorders are a major cause of suffering, pain and death in Scotland and around the world. However, the scale of the problem is grossly under-recognised. Lung disease affects people of

all ages, but lung damage in the very young might have long-term consequences and lead to serious lung disease in later life.

Many diseases can affect the lungs, such as asthma, bronchitis and emphysema. They are collectively known as chronic obstructive pulmonary disease—COPD. As the research paper that was provided by the Scottish Parliament information centre shows, mortality from COPD has increased in Scotland from 2,381 in 1981 to an alarming 9,581 in 1999. In the past 19 years, 120,248 people have died from such diseases—three quarters of which deaths were caused by tobacco use.

Those diseases share common symptoms such as coughs, wheezing and breathlessness. For people who suffer from lung disorders, a major issue is access to smoke-free air and smoke-free public areas. Experts agree that the main indoor air pollutant is cigarette smoke. According to the UK's independent Scientific Committee on Tobacco and Health, environmental tobacco smoke—also known as passive smoking—is a cause of lung cancer and childhood respiratory disease. It makes respiratory conditions much worse. Indeed, the impact of other people's cigarette smoke on people who have asthma is immediate. Cigarette smoke is a highly common trigger of asthma attacks and it causes difficulties for up to 80 per cent of people who have asthma.

Young children are particularly at risk from tobacco smoke. Exposure to passive smoking increases dramatically the risk of cot death, acute and chronic middle-ear disease, asthma and impairment of lung function. Up to 50 children a day, or over 17,000 each year, are admitted to UK hospitals because of the effects of other people's cigarette smoke. In Scotland, the figure is five children a day or almost 2,000 children each year.

In 1999, the World Health Organisation stated that passive smoking was a real and substantial threat to child health. The Froggart report, published in 1998, attributed 300 lung cancer deaths each year to passive smoking. The death rate for Scottish women from lung cancer is five times the rate in France, partly because of passive smoking. The General Register Officer for Scotland, in evidence that was published in the *British Medical Journal* in 1997, estimated that passive smoking leads to a 26 per cent greater risk of contracting lung cancer.

What is the Executive doing to help and support people who have lung disorders in their daily lives, or to prevent young people from being exposed to passive smoking from an early age? I regret to say that it is doing very little. Vulnerable groups of people who suffer from lung conditions are discriminated against. A lack of smoke-free public places means that they do not have smoke-free

access to shops, restaurants or cafes. That restricts their basic freedom of movement.

A national survey that was undertaken last year by Action on Smoking and Health (Scotland) and the Health Education Board for Scotland exposed the lack of policies on smoking throughout the leisure industry. It was revealed that more than half of the establishments that were surveyed, including shops, cafes and community centres, did not have any form of smoking policy in place. A shocking 58 per cent of businesses allowed members of their staff and the public to smoke on their premises.

In areas of deprivation the figures were far worse, with 92 per cent of pubs and bars allowing the public to smoke throughout their premises. The Executive's failure to implement policies to restrict smoking means that the general public and, in particular, vulnerable groups such as children are not adequately protected from the health risks of passive smoking. Since the survey was undertaken, the Scottish Executive has introduced a voluntary charter on smoking in public places, which is welcome. A year on, however—albeit that it was a step in the right direction—the voluntary approach is proving to be woefully inadequate, because it is failing to protect public health.

We must introduce, as a matter of urgency, legislation to restrict smoking in public places. Passive smoking is a major public health risk, especially for vulnerable groups such as lung-disease patients and children. We need a national public information campaign on the risks of passive smoking to educate and inform the public and to support those in our society who are discriminated against and who suffer the burden of respiratory disease.

I commend Michael Matheson's motion and the work of the British Lung Foundation's Breathe Easy clubs, ASH Scotland and the other groups in the Scottish cancer coalition on tobacco. I also commend all those who are fighting for clean air and an effective national strategy on lung disease.

17:28

Dr Richard Simpson (Ochil) (Lab): I declare that I undertake occasional work with Astra-Zeneca, a company that has some interests in respiratory health.

I join others in congratulating Michael Matheson for securing the debate. There are about 4,600 new lung cancer registrations every year. As Michael Matheson said, it is poor indeed that the five-year survival rate continues to represent about 6 per cent of cases. In addition to concerns about the numbers that are diagnosed and the five-year survival rate, the other concern is that the median

survival rate is only three months. Those figures show the poor outcome from lung cancer disease.

In the past 20 years, the incidence of women who are diagnosed as having cancer has doubled. The rising trend of smoking, especially in young women, is storing up problems for the future. The tobacco industry is more than happy to replace women who die from lung cancer with new recruits. I hope that ministers will continue to press their UK counterparts to reintroduce the bill to ban tobacco advertising. If that happens, I also hope that it will not be blocked by the Conservative Opposition or by the House of Lords.

We need an effective care pathway that is based on grade A evidence, because that would more than double the five-year survival rates to around 14 per cent. It is suggested that if that happened, at least 300 lives would be saved each year. That would involve 100 additional, timely operations, 600 additional courses of radiotherapy, the introduction of CHART—the particularly intensive form of radiotherapy that produces the best results, to which Michael Matheson referred earlier—and 400 additional chemotherapy courses. To achieve that, the Clinical Standards Board for Scotland must not only comment on the standards, but report on the specific resources that are needed, so that those needs can be addressed.

It is a matter of concern that the Health and Community Care Committee, in consideration of the budget for last year and on examination of the health improvement plans, found that only £1 million of new money could be identified as going into cancer. At that rate, and unless the new cancer plan is costed quickly and implemented, it is unlikely that we will make improvements. We need earlier presentation and we need to deal with the bottlenecks—especially in radiology—and ensure that the managed clinical networks that are beginning to be set up are properly implemented, with good care pathways. In other words, we need an improved cancer journey.

On asthma, passive smoking—as one of the main triggers of asthma—must be tackled. Although there is no doubt that there has been a substantial improvement in asthma care over the past 10 years, many people still die of asthma. Best practice must be implemented in all areas. That can best be done through the local health care co-operatives which, through their programme of clinical governance, must ensure that the primary care teams throughout the country respond by improving practice.

I commend the fast access respiratory clinic that was set up in Falkirk, in the Forth Valley area that covers my constituency. That was based, entirely appropriately, on previous research that demonstrated that such a facility would reduce

emergency admissions by some 18 per cent. That is the sort of one-stop clinic that the Executive has been promoting. However, I wonder why it is taking so long to introduce such measures. Surely such best practice should be rolled out more quickly throughout the country.

Finally, the role of occupational health must be examined closely. Scotland's Health at Work, under the chairmanship of Andrew Cubie, is beginning to make an impact on what is done in employment situations. However, when we hear that 58 per cent of employers still do not have a no-smoking policy in place, we realise that we still have a long way to go. We must start getting there.

17:32

The Deputy Minister for Health and Community Care (Malcolm Chisholm): I congratulate Michael Matheson on securing a debate on this important subject. Lung disease represents one of the major elements of the care that is provided by the NHS in Scotland. For example, worsening of chronic obstructive pulmonary disease—COPD—as we now call what used to be known as chronic bronchitis and emphysema, is the commonest cause of admission to hospital. A quarter of all medical emergency admissions are because of respiratory diseases.

The Executive greatly appreciates the work of the British Lung Foundation in Scotland. The foundation's 16 Breathe Easy groups across Scotland do excellent work in offering information and support to those who suffer from lung conditions, as well as to their families, friends and carers. They also help health professionals. The groups' involvement with health boards has encouraged initiatives such as the introduction of respiratory nurses in GPs' surgeries.

The motion mentions in particular lung cancer in women, as did Richard Simpson. That is an issue of serious concern. About 1,900 cases in women are diagnosed every year. Unfortunately, the incidence of lung cancer in women looks set to go on rising over the next 10 years.

"Scotland's Cancer Strategy", which is due to be published soon, sets out the Executive's key messages for improving cancer prevention and for the detection and treatment of cancer. Lung cancer will feature prominently in that national strategy. The Clinical Standards Board is developing standards for lung cancer, based on the relevant guideline produced by the Scottish intercollegiate guidelines network—SIGN.

The gloomy outlook for women and lung cancer is due in large measure to smoking patterns. Smoking is the greatest single cause of

preventable disease and ill health in Scotland. It is responsible for about 84 per cent of lung cancer deaths; in some areas, the figure is as high as 90 per cent. We shall do everything we can to reduce the toll smoking takes on the nation's health. That applies to all respiratory diseases and lung conditions, not just lung cancer.

The Executive is already introducing a comprehensive range of measures to reduce smoking levels. I assure Richard Simpson that we have made the strongest possible representations to the UK Government about introducing the tobacco advertising ban that the Health and Community Care Committee recently agreed could be imposed most effectively on a UK basis.

Michael Matheson referred specifically to CHART. I tell him that £13 million has already been made available for linear accelerators. That will mean that, in time, treatments such as CHART can be planned for. More will be said about that in the cancer strategy.

The motion also refers to research. The Executive fully appreciates the valuable contribution that charitable bodies such as the British Lung Foundation make towards funding research. I am happy to endorse what the motion says on that score. The chief scientist's office, which is the body within the health department that is responsible for sponsoring research, has funded 36 research projects related to lung disease. Its total investment in that work is £3.5 million.

There is some good news in relation to specific lung diseases. On flu and pneumonia, we are encouraging vaccination for older people, with considerable success. On cystic fibrosis, the high quality of services that are provided for both children and adults has been recognised by the Cystic Fibrosis Trust. On chronic obstructive pulmonary disease, clinicians in Scotland have promoted a successful initiative, called the acute respiratory assessment services, which helps people with severe exacerbations of COPD. Michael Matheson, who referred to specialist nurses, will note that that initiative is a nurse-led, hospital-at-home service. Last year, it helped to avoid 120 hospital admissions to Edinburgh royal infirmary alone.

Cathy Peattie, David Davidson, Dennis Canavan and Richard Simpson referred to asthma. It is encouraging that the use of anti-asthma drugs has been rising. At least some of the credit for that must lie with the SIGN guideline on the management of asthma in primary care. All the guidelines are produced nationally, but they are intended to be implemented locally. I agree that we want uniformly high services across the country. "Our National Health: A plan for action, a plan for change" has as its fundamental aim the delivery of health service that is truly national, with

consistent standards across the country as a whole. The SIGN guidelines are an integral part of that process.

The Clinical Standards Board for Scotland, too, can help. If the clinicians who are responsible for the management of lung disease could produce a set of core standards, which should apply no matter where in the country the treatment is delivered, the Clinical Standards Board could consider them. The board would want to ensure that the standards were in line with its ethos, which is about fully involving the public in the process. I remind members that the Clinical Standards Board is already working on cancer treatments.

David Davidson asked about guidance on the management of asthma in schools. The intention is that such guidance should be issued by the middle of August, in time for the start of the autumn term. It will have recommendations on raising the awareness of school staff about common conditions such as asthma. It will also provide guidance on more specific training for school staff who volunteer to administer medication to children, including children with asthma.

Cathy Peattie: Does the minister agree that it is important that children are allowed to carry their own inhalers and take responsibility for self-management of their asthma? For too long, inhalers have been held by nurses, but a young asthmatic child in the middle of a playing field may be scared to run if they do not have their inhaler with them.

Malcolm Chisholm: I bow to Cathy Peattie's superior knowledge in that regard.

For several years, the health department has given grant support to the National Asthma Campaign Scotland towards its work in supporting and promoting the interests of people with asthma. In the current financial year, the campaign has been awarded a grant of £57,000.

On chronic diseases generally, "Our National Health: A plan for action, a plan for change" commits the Executive to work with NHS Scotland and voluntary bodies, such as the British Lung Foundation, to improve services for people with chronic conditions such as asthma and bronchitis. That will provide an opportunity to examine the assertion in the motion that services are provided inconsistently across Scotland. I understand why there is a wish to raise the profile of those conditions through the development of a national strategy. I agree that we must all work together to tackle lung disease and reduce the suffering and misery that such conditions cause to all too many people in Scotland. As the action and investment outlined earlier testify, the Executive is committed

to making a difference, but it is not a question just of money and organisation—it is also about the choices that people make about how to live their lives and the support that we give them in making those choices.

Meeting closed at 17:40.

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