

MEETING OF THE PARLIAMENT

Wednesday 25 September 2002
(*Afternoon*)

Session 1

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Scottish Parliament

Wednesday 25 September 2002

(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 this week, we welcome Alison Twaddle, the general secretary of the Church of Scotland Guild.

Alison Twaddle (General Secretary, Church of Scotland Guild): I thank Sir David and members of the Scottish Parliament for the invitation to share this time of reflection with you.

This summer, my football-daft son has taken up cricket. This has not met with universal approval. There are those who view the game as sissy, snobbish and somehow un-Scottish. I have reacted strongly to that attitude and here is why.

In one of those upheavals of war that affect the lives of individuals as profoundly as they affect nation states and ideologies, a young man from the mills of west Yorkshire found himself posted, 60 years ago, to a highland village in Ross-shire. He met an attractive young woman, and the rest, as they say, is history. The war over, he took his bride back to south Yorkshire where he had work. It was for her a considerable culture shock. The language was difficult to understand; instead of spreading out the washing to bleach on the hedges, she was frequently hauling it in from the line to wash away the soot spots from the neighbouring coal tips—she could see six from her kitchen window. She was able to follow her faith, but even that took strange new forms—quiet highland Presbyterianism was replaced by the social gospel of Methodism. She was, you might say, homesick.

But 50 years later, when on retirement she returned to her beloved Scotland, she wept buckets; not for the soot of the coal mines long gone, nor for the accent she had never quite got the hang of, nor even for the Wesley hymns, but for the people; the people who had been welcoming, accepting and generous-hearted; the people who had been interested in her culture, learning her country dances and appreciating her songs, and from whom she in turn had learned the art of the perfect Yorkshire pudding and a lifelong love of village cricket. How glad she would have been to see her thoroughly Scottish grandson follow in his grandpa's footsteps as a mean spin

bowler.

Another young woman in another time and place came as an economic migrant to a distant land, where she found work and a husband and where, in time, her great-grandson became the leader of the nation. That is not the great American dream, although it might well be, but the Biblical story of Ruth, great-granny of King David. Who knows what future sporting heroes, MSPs or First Ministers may even now be arriving on our shores to share the great Scottish dream?

Our prayer is:

God save us from the impoverishment we will inflict upon ourselves if we fail to see and embrace the gifts and insights of those who are different from ourselves.

Proposed Commissioner for Children and Young People Bill

The Presiding Officer (Sir David Steel): Our main item of business this afternoon is a debate on motion S1M-3322, in the name of Karen Gillon, on behalf of the Education, Culture and Sport Committee, on its report on their proposed commissioner for children and young people bill. I invite members who want to take part in the debate to indicate that now. I have much pleasure in asking the convener of the committee to speak to and move the motion.

14:34

Karen Gillon (Clydesdale) (Lab): Time for reflection is often relevant to the coming debate. Today's time for reflection was about celebrating differences and ensuring that everyone realises their full potential, which relates to the children's commissioner. It is my honour and privilege to present to the Parliament the Education, Culture and Sport Committee's "Report on Proposed Commissioner for Children and Young People Bill".

When the issue was first mooted, I was one of the more sceptical committee members. However, like other members, I listened to the evidence. For me, the most important evidence was that of children and young people. I am now convinced that the right way forward is to establish a commissioner for children and young people as a matter of urgency.

I thank all my colleagues who have helped the committee to reach this point. Since the process began in 2000, a number of committee members have gone to pastures new, but all of them played their part. I particularly thank Jackie Baillie and Irene McGugan, who were reporters to the committee and who have beavered away at the detail in the past two months. Without their dedication and many hours of extra work, we would not have got this far. Some people wish that we had not got this far and doubted that we would.

The issue has engendered a huge amount of cross-party work and co-operation. The inquiry has been a long one, but we have worked together throughout. The consensual approach has benefited tremendously what is an important and non-political issue. I am sure that that is exactly the type of work that was envisaged for the new political reality. Let us hope that it continues from here on in.

I also thank the clerks—there have been many in the past three years—everyone who was involved at the Scottish Parliament information centre and the team from the non-Executive bills

unit, which has put in 2,000 hours to help the committee develop its work. I also thank NEBU's legal advisers, who are important people. Most important, I thank Alison Clelland, who was the adviser to the committee during the inquiry and who was invaluable. That is the Oscars bit finished. It was important, because many people have helped.

Some would say that the issue is political correctness gone mad, others that it is another example of the nanny state and others that it is an example of the Parliament's wasting more time. I disagree, and a leading Queen's counsel agrees with me. A children's commissioner has the potential to begin to remedy certain issues. It is high time that the Government gave serious consideration to following the majority of European states by establishing such a post. If we do not, we risk allowing children's rights to continue to languish near the bottom of the political agenda. Perhaps that QC's husband, Mr Blair, will listen to her on the issue of a United Kingdom children's commissioner.

Why is a children's commissioner needed? The First Minister stated this month that 11,000 children are looked after by the state. Those children need someone to protect and speak for them. As representatives of the state, it is our duty to give those children a voice that we can hear and act upon. The fact that they are children is irrelevant. A group of 11,000 people—male or female—should be listened to and should be deemed worthy of a voice. Those people need a representative. It flies in the face of democracy to leave children and young people without an effective voice.

Given that 2,114 children were referred to the children's hearings system last year, it cannot be denied that youth crime and drug taking are problems in our society. The Scottish Executive has put in place a number of measures to tackle those problems, which seem to be having a positive effect, but we need more. Children and young people in Scotland need to know that they are valued and that their opinions are worth while. I want the commissioner put in place so that those opinions are talked through and acted on rather than sprayed on a wall.

There is a culture of uncertainty in the UK about our children. More than ever, we worry for their safety. The role of the children's commissioner will prove significant because children will be assured by the fact that a power and authority exists that was designed to make a difference to them and only them. Children will place implicit trust in the commissioner, who will provide safety and protection for children, many of whom have no one else to turn to.

In September 2000, the *Evening Times* stated

that, in Scotland, five children a day are victims of abuse. A commissioner will have the power to right wrongs against such children. He or she will be able to investigate in a way that has never been seen before in this country, where organisations have failed children. By establishing the office, we will give children and young people a chance by further protecting their safety and focusing on their needs.

This month, the *Daily Record* has run a campaign that is designed to stop children from committing suicide. Some of the stories are harrowing. It is clear that the children and young people who are involved believed that they had no one to turn to, to speak up for them or to give them a voice—that they had no option but to take their own lives. In 2002, politicians should hope for more for children and should provide them with a framework to give them safety and security rather than fear and loneliness.

The report recommends that we should establish by statute a new and independent office—the commissioner for children and young people—whose work will cover all children and young people to age 18 and those between 18 and 21 who have been in receipt of care. In the past three years, debates in the chamber have shown that there is a real issue relating to children leaving care and their aftercare support.

This morning, I was at Stanmore House School in my constituency. The school deals with children who have complex special needs. One question that was constantly asked was, what happens to such children when they reach 18 and must leave school? There is a mixed bag of things for them, but many do not have anywhere to go and will not receive the real support that they have received in the school for perhaps 10 or 12 years. The issue of support for disabled children who are leaving care is pertinent.

The remit of the commissioner should be to co-ordinate, monitor and promote issues that affect children's rights and interests.

Scott Barrie (Dunfermline West) (Lab): On young people with complex special needs who are leaving the formal education service and going into adult services, does the member agree that we need to tighten up on future needs assessment meetings? Too often, young people who are outwith their home area return there almost by surprise, yet we have known about them for a long time. The resources do not exist to meet their needs. We must tie up such issues.

Karen Gillon: Scott Barrie is absolutely right. At Stanmore House School, which is a national school to which children go from all over Scotland, staff clearly identified that problem. They also said that, even when a good future needs assessment

has been made and all the correct things put in place, sometimes things still fall down when young people leave the facility. We must continue to consider and evaluate such matters.

It is important that the work of the commissioner should be informed by the views of children and young people and that the principles of consultation, participation and accessibility should be central to the commissioner's work. The added value that the commissioner brings will be unique in combining a number of elements. Most significantly, there will be a focus on all children and a mainstreaming approach to the promotion of children's and young people's rights.

The bill to establish the commissioner should provide for the fundamentals of the post and should include the commissioner's powers and remit—the committee thinks that that is important.

This debate is important. We believe that the committee bill approach is right, as it gives committees the power not only to identify a problem, but to work together to devise a solution. It ensures that the power to initiate legislation lies with the Scottish Parliament and not just with the Executive. The committee approach gives non-members of the Scottish Executive the power to make positive changes and encourages MSPs, of all parties, who work in committees to seek consensual solutions. The requirement that the proposal for a bill be in the form of a report encourages the committee to consult widely before coming to a final view. In essence, the matter is not just about the Executive, but about the whole Parliament having the power to progress on such an important issue.

We began the process back in January 2000, when the then Minister for Children and Education—Sam Galbraith—asked us to look into the matter. We were to investigate whether there was a need for a children's commissioner in Scotland and outline the roles and responsibilities of the post if we found that such a need existed.

The inquiry has spanned a long time and matters relating to it were considered over the course of 16 formal committee meetings. The most important part of the inquiry was the consultation that reflected the views of children and young people. We set about getting to the bottom of the issue through focus groups, large-scale consultation events and questionnaires. We were aided by a full consultation and campaign that was undertaken by the *Evening Times*. That provided us with further evidence to support the ever-growing demand for a commissioner from children and young people throughout Glasgow. The *Evening Times* must be congratulated on taking the issue so seriously and setting so much store by the views of children and young people. We appreciated the approach that was taken and it is one from which many could learn.

We also commissioned a video film, which enabled young people who could not come to the Parliament to make their views known. That was important.

We received many written submissions and took a wide range of oral evidence. I will quote some of the comments that children made. One stated:

"We think that having a children's champion would make a difference because it would help children all over Scotland to stand up for their rights, it would make children feel safer, and it would help children who are sad or depressed. It would also make children happier to know that their ideas had been listened to or maybe acted on."

Another said:

"Children might have ideas which could change Scotland, but how will they know if they don't ask?"

Another child stated that a commissioner

"would give us a platform in the Scottish Parliament to voice young people's opinions."

It is sad that what came through most strongly was reflected in this statement:

"Adults don't listen to children but they would listen to a Commissioner for children."

Members will be aware of other reports that the committee has produced. They will also be aware of the significance of the United Nations Convention on the Rights of the Child. The report is based on the convention. My colleague Irene McGugan will go through in more detail what that will mean.

I draw members' attention to devolved and reserved matters. My colleague Ian Jenkins will consider those in more detail. Some issues and services overlap the United Kingdom Parliament and the Scottish Parliament. This Parliament cannot give a commissioner powers that are outwith those given to it under the Scotland Act 1998. The committee's contention is that the commissioner should be able to comment on reserved matters, should they be incidental to the commissioner's functions.

I acknowledge the Scottish Alliance for Children's Rights. In 2000, it produced a report, "A Proposal for a Commissioner for Children in Scotland". The report was the culmination of a decade of campaigning by the voluntary child care sector for the creation of such a post. The organisations that work under the umbrella of the alliance have enthusiastically welcomed the committee's report. On behalf of all members, I thank them for their hard work. I hope that they take pride in their significant contribution to the creation of a commissioner. Perhaps the alliance's intention that the commissioner will make a difference to the lives of children and young people in Scotland will be realised by 2003.

How will the bill work in practice? The commissioner will be appointed by the Queen on the recommendation of the Parliament. The commissioner's term of office will be a period of up to five years, with the possibility of a further term. A person can hold the post for no longer than 10 years. The commissioner will be publicly funded. The commissioner will publish and lay before the Parliament an annual report that sets out, among other things, a review of the commissioner's activity over the previous year.

The commissioner will be placed under a duty to take all reasonable steps, as an on-going process, to encourage the involvement of children and young people in the work of the office.

The primary role of the commissioner will be to promote and safeguard the rights of children and young people. In doing so, the commissioner will have regard to the relevant provisions of the United Nations Convention on the Rights of the Child. The commissioner will fulfil that role by the promotion of rights; active engagement with children and young people; a review of current practice; making recommendations on best practice; and by the publication and promotion of research.

The commissioner will have the power to carry out investigations into how the rights, interests and views of children and young people are taken into account, but will not have the power to investigate the case of an individual child or young person. Any organisation that provides a service to children may be subject to an investigation. Having carried out an investigation, the commissioner will report their recommendations to the Parliament. My colleagues will go into more detail on how that will work in practice.

The commissioner will make a difference to the lives of children and young people in Scotland and cannot be seen simply as tokenistic. However, a difference can be made only if the commissioner works to ensure that the rights of children and young people are treated as a priority by policy makers and service providers. The commissioner's credibility will derive not only from their statutory footing, but from active engagement with children and young people plus the knowledge and experience gained from their sole focus on children's rights. Their credibility will also be ensured by the independence of the office, which the committee believes is crucial. The commissioner will report to the Parliament because, of course, there is a need for accountability. The work of the commissioner, however—the issues that are tackled and the priority that is placed on them—will not be directed by the Parliament, the Scottish Executive or any other body or person. Peter Clark, the commissioner for children in Wales, told the

committee that his office is answerable first and foremost to children and young people. That is the ethos that I hope the commissioner for children and young people in Scotland will follow.

The commissioner will be well placed to represent children's interests and influence decision makers at the highest level. The commissioner will be able to make a difference through informal working relationships with organisations such as the Scottish Parliament, the Executive, the voluntary sector and other commissioners and ombudsmen and will have a key media role in promoting the rights of children.

There is, quite rightly, a lot of talk about how initiatives add value. How will the children's commissioner add value to the lives of children in Scotland? I think that they will do so by providing an integrated, focused and—most important—mainstreaming approach to the promotion of the rights of children and young people. The office will be unique in the combination of elements that it will cover. It will cover all children and young people. We debated that issue long and hard because there were good arguments each way, but we believe that it is important that the commissioner has the right to act for all children and young people.

The commissioner must act to minimise overlap and duplication with others working in the field of children's rights by co-ordinating work with other relevant bodies and playing a clearing-house role where appropriate. Many of the children and young people to whom we spoke wanted the commissioner to be able to point them in the direction of the organisations that could best help them. However, they also said that they wanted a way to feed back their views if that route did not work.

Alex Neil (Central Scotland) (SNP): I agree with that point. Does Karen Gillon agree that the personality of the commissioner is critically important and that the last thing that we should do is appoint a middle-aged stuffed shirt who cannot communicate with children—even if the colour of the shirt is heather?

Karen Gillon: Obviously, we cannot depend solely on a personality, but the person's ability to engage and work with young people will be the key factor. Members will notice in the report that we have ruled MSPs out of the job until two years after they have ceased to be a member of Parliament. There is therefore no vacancy for anyone who might leave in May 2003.

I welcome the Executive's constructive response to the report. There is a lot of common ground between us and I am sure that we can work together to develop the legislation. I also thank the Executive for agreeing to make time available for

the Parliament's consideration of the proposed bill, especially in the busy final period of the first session.

If the Parliament today approves the proposal, I, as convener of the Education, Culture and Sport Committee, will proceed to instruct the introduction of the bill. The next step will be the consideration of the bill by the Finance Committee and the Subordinate Legislation Committee, followed by a stage 1 debate on the principles of the bill. The procedure does not require that a committee consider the general principles of the bill, as that work has already been done by the Education, Culture and Sport Committee.

I hope that members will agree that a lasting legacy from the first Scottish Parliament in 300 years to future generations of children and young people will be the establishment of the post of commissioner for children and young people; a post with teeth and ability.

I move,

That the Parliament agrees to the proposal for a Committee Bill under Rule 9.15 contained in the 11th Report 2002 of the Education, Culture and Sport Committee, *Report on Proposed Commissioner for Children and Young People Bill* (SP Paper 617).

14:55

The Minister for Education and Young People (Cathy Jamieson): I was interested to hear that Karen Gillon was one of the sceptics early on in the Education, Culture and Sport Committee's inquiry. I wonder what changed her views. Was it the number of education ministers with whom the committee had to work; was it the fact that the committee had a number of different conveners or was it—perhaps more likely—the fact that, during consideration of whether a bill for a commissioner for children and young people was a good idea, she added to the child care population?

Mr Brian Monteith (Mid Scotland and Fife) (Con): Could it also be that Karen Gillon found herself on the same side as me?

Cathy Jamieson: We do not know that yet. We have not heard Brian Monteith's speech.

I welcome the opportunity to debate the Education, Culture and Sport Committee's report and I thank all those whom Karen Gillon thanked.

I want the Parliament to take every opportunity to improve the lives and experiences of our children and young people. That is something about which I feel passionate and I know from speeches that I have heard in the Parliament that I am not alone. The Education, Culture and Sport Committee is to be congratulated on the work that it has done so far.

Children are at the heart of the Executive's agenda. We make it clear that we want every child and young person to get the best possible start in life and to realise their potential in later years. Our budget plans for the next three years confirm that commitment to supporting our most vulnerable children and their families. Last week, I was pleased to announce additional resources for two of our key programmes: £31 million for sure start Scotland and £23.9 million for the child care strategy.

More than that, the Parliament has allowed children's issues to take centre stage in an entirely new way. Children who have special needs, children who have disabilities, looked-after children and children from travelling families or from ethnic minority families have all been considered in our work in a way that simply was not possible before.

However, we can and should do more. It is worth remembering that children form one fifth of Scotland's population and that over 25 per cent of all households include children. Still, too many children are born into poverty and disadvantage. By the age of three, some children are already better placed than others to benefit from available opportunities. Research tells us that children from disadvantaged backgrounds can suffer a range of lasting problems. They might suffer poor educational performance or they might end up having more contact with the police or other authorities. Those children also have a wider range of health problems. All those things can impact on their adult lives. A real opportunity gap exists between those who are likely to succeed, and those who are likely to fall behind. We are committed to closing that gap.

In the past few weeks, we have heard about continuing concerns about the plight of vulnerable children and young people. We heard them graphically in our debate on the throughcare and aftercare of looked-after children. We see them in Barnardo's hard-hitting campaign on child prostitution. We saw some of the stark figures in Save the Children's report on child poverty. Karen Gillon has already mentioned the *Daily Record* campaign on suicide among young people.

I believe that a commissioner for children and young people could help to raise a voice for the most vulnerable and disadvantaged children in Scotland. A commissioner could help to tackle child poverty and exploitation and help to make a real difference to the lives of children and young people. I agree that a commissioner's work should support all children and young people, but that work could make the greatest impact by focusing on the most vulnerable children in society—those who are most at risk of social exclusion and deprivation. We have a once-in-a-generation

opportunity to establish a commissioner who will be able to make that positive difference and add value to work that is already under way.

We need, however, to ensure that the role, remit and powers of the commissioner will enable us to make that step change and allow us to build on the strengths of, and address the weaknesses in, what we have in place. As I outlined in the Executive's response to the Education, Culture and Sport Committee's report, I believe that we can do that by focusing on four key areas: promoting and safeguarding children's rights; communicating with children; investigations; and promoting good practice. I wish to say a bit about each of those areas.

On promoting and safeguarding children's rights, I believe that a commissioner could promote a culture of children's rights and of respect for the views of children. We need to raise awareness among children and the wider public—parents, professionals and, indeed, politicians—about children's rights, including the rights to be kept safe from violence, to be kept safe from harm and to be protected from exploitation and abuse.

On communicating with children, I welcome the emphasis in the Education, Culture and Sport Committee's report on involving and consulting children and young people. Young people should have the right to be consulted on all issues that concern them, and they have a unique perspective that is of real benefit to decision makers. Getting children and young people involved in the wider democratic process can raise their self-esteem and can encourage more active citizenship throughout their lives. I believe that we should encourage that process.

It was interesting to note from the consultation that some young people, who were interviewed by Save the Children and were asked what help they wanted, said:

"We don't know ... It's a question that's never been put to us."

I think that the Parliament has a good record of putting questions to children and young people, and that we are getting better at doing that.

The young people also said that they wanted us to listen to them, to give them a chance and to let them get on with their way of life. They also said:

"Decisions are being made about us, about education, every day, and we are given no input whatsoever."

That is something that the Parliament is changing, but a children's commissioner would engage with children and young people and would find out what matters to them and what their priorities and concerns are. Only by doing that will a commissioner be able to reflect the views of children and young people in his or her work.

Mr Monteith: Can we be certain that a commissioner, and politicians for that matter, will not merely pay lip service to the idea of listening to children? I do not wish to be particularly partisan, but would anyone listen to the views of the children of, for example, St Mary's Episcopal Primary School in Dunblane?

Cathy Jamieson: I have no doubt that the Parliament and politicians do listen to the views of children and young people. I suggest that we need to do more on that and to reflect the views of children and young people. I believe that there are a number of occasions on which the Parliament has done that, and I believe that the commissioner would do that with all children and young people.

The problem—this is one thing that Brian Monteith will understand—is that listening to the views and opinions of children and young people does not mean that it is possible always to tell them that they can have everything their own way. I am sure that Brian Monteith would himself have learned that lesson as a child.

Mr Monteith: I was a spoiled brat, but I was spanked.

Cathy Jamieson: I will refrain from making any comment on that; rather, I will continue with my speech.

It is important that a commissioner must seek to include children who might be harder to reach, for example children who have communication difficulties, whose first language is not English, who are from ethnic minority backgrounds and who have disabilities. The expertise that has already been developed by various voluntary organisations could be a useful starting point.

Karen Gillon covered some of the points that I was going to make on investigations. When I speak to people about a commissioner, they often ask what he or she will actually do in carrying out investigations. There are already mechanisms in place to handle individual complaints, and we do not wish to duplicate those processes. However, if those mechanisms are not working effectively, we need to address the problems. Rather than the commissioner investigating every individual complaint, I believe that their appropriate role would lie in directing children and young people to appropriate organisations and supporting them in making contact. There may also be a role in reviewing and monitoring the complaints procedures of public authorities and in promoting child-friendly good practice.

On promoting good practice, I know that we all want our children and young people to have access to services that give them the best opportunities to prosper. It is central to a joined-up approach that education, social work, housing, health and other agencies work together. The

Cabinet sub-committee on children's services is already beginning to make progress on better integration of the policy, funding and delivery of children's services throughout Scotland.

The changing children's services fund should be a catalyst for change in enabling local authorities, health boards and the voluntary sector to deliver better outcomes for our most vulnerable and deprived children. The commissioner could have an important role in driving forward that agenda. He or she could identify and support good practice through provision of advice to various agencies. That advice could usefully include advice to the Executive and the Parliament on promoting children's rights and good practice. The commissioner could also identify gaps in services for children and consider how best to address those.

The commissioner could achieve that through production of a child impact statement, as part of his or her annual report to Parliament. A child impact statement could consider the impact on children and their families of all legislation, policies and initiatives. I am in no way trying to detract from the responsibilities of the Executive and the Parliament, but a child impact statement would provide an overview of the position of all children and young people in Scotland. It would allow the commissioner to comment on and raise awareness of a range of issues that affect children and their families. It would allow the commissioner to identify good practice in our dealings with children, and to identify the areas in which we could all improve; that is, the progress that we have made and the areas in which we should seek to do more. I have no doubt that an independent commissioner would press the Executive and Parliament to deliver even more for children and young people.

We have an ambitious vision, but we also have a substantial task. We need to give the commissioner the powers to carry out the role effectively. As has been said, the commissioner must add value and not simply replicate functions that are already performed by other agencies. He or she must co-operate with other agencies and individuals, including other commissioners and ombudsmen. Active and meaningful partnerships with statutory and voluntary agencies will be needed. We must address all those issues as we take the matter forward and we can learn from good examples in other countries.

I welcome the report of the Education, Culture and Sport Committee. A commissioner for children and young people could make a real difference to the lives of children and young people in Scotland. I know that the committee is keen to advance the proposal as a committee bill and I know that the committee has a great deal of work to do.

However, I am confident that working alongside the Executive and the Parliament the committee can set a positive tone and move forward to deliver effectively for our children. Where I can, I will work with the committee to support it.

15:08

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

I suggest that the first line of the proposed bill should read, "There shall be a Scottish commissioner for children and young people". For some folk, this development is only slightly less significant than the establishment of the Parliament.

The establishment of the post of children's commissioner will send a clear message that all children in Scotland matter—that their human rights are as important as those of adults, and that the views of children and young people will be heard and acted on. From our consultation and our everyday experience, we know that that is very important to them. Every day, decisions are taken that affect young people, but they feel that they have no input into those decisions. They have no advocate who will articulate views on their behalf.

The proposed bill has added significance because it will be a committee bill. I feel privileged to have been part of the process. Committee members are very encouraged by the positive response and support that the minister and the Executive have given to our proposal.

The commissioner's remit would cover children up to the age of 18. For children who have been looked after by a local authority that duty would extend to age 21, in line with the provisions of the Children (Scotland) Act 1995. There were difficulties in determining the age range to be covered by the bill. Different views were expressed to the committee on that issue. We propose that the commissioner should focus on the 1.25 million children in Scotland up to the age of 18, with an extension beyond that to a fairly small group of particularly vulnerable young people. They are vulnerable because they do not have, or at some time have not had, a family environment. That focus is entirely appropriate and in keeping with the Executive's objective of supporting disadvantaged young people.

The commissioner will have four key functions. The primary one is to promote and safeguard the rights of children and young people. We realise that in doing that the commissioner will have to promote awareness and understanding of exactly what those rights are throughout the whole population. It is a sad fact that most children, young people and, indeed, adults in Scotland would be unable to articulate any of them.

Secondly, the commissioner will be expected to keep under review current law and practice that relates to children and young people. The commissioner will then go further and assess whether such practice and existing law is adequate and effective. We acknowledge that the Executive has an obligation in that regard too, but we see the roles as complementary.

The third function is to promote best practice in relation to the rights of children and young people—practice being interpreted broadly to include policy. Finally, the commissioner will have the power to commission research to investigate how the rights are being exercised. All the results of that research will be published.

Underpinning all those functions are the relevant provisions of the United Nations Convention on the Rights of the Child. The bill will refer to the convention in general terms, but the commissioner will have regard to the convention as a whole. The main principles that are expressed in articles 2, 3.1 and 12 will be covered particularly and we intend that those provisions will focus the work of the commissioner. That means specifically that the views of children and young people will be taken into account in all decisions that affect them; that the best interests of children should be the primary consideration in all decisions that affect them and that no child should suffer discrimination. We see those three principles as forming the basis of the commissioner's remit.

The principles of consultation, participation and accessibility will be key to the commissioner's work. As the Education, Culture and Sport Committee's report makes clear, the work of the commissioner will be informed by the views of children and young people. That will require that every opportunity be taken to receive their input and input from organisations that work with and for children and young people. For example, the commissioner will be under a duty to obtain views on matters that affect the rights of children and young people and to consult on the proposed programme of work and set out how that programme will be achieved.

The commissioner will be required to prepare an annual report, to be presented to Parliament, which should include that information. The report should also include a strategy for actively engaging young people in the work of the commissioner. That will be covered in every annual report by examining how successful the commissioner has been in the past year and how the requirement will be tackled in the coming year.

We accept that engaging with every child in Scotland on a one-to-one basis would be impossible, but the committee expects the commissioner to explore a variety of ways of involving children and young people in the work.

There are examples of good practice in the voluntary sector and from other children's commissioners in Europe. We hope that our commissioner will not be afraid to innovate.

The annual report will also contain a review of all the issues that the commissioner identifies as being relevant to children and young people. It will contain a review of all his or her activities in the previous 12 months and an overview of work that is to be undertaken in the coming 12 months, while allowing for some flexibility and alteration.

A great deal of accountability will be built into the proposed bill, which the committee felt was very important. That will have the effect of holding the Executive to account for the ways in which policy affects children and young people. I was heartened to hear the minister's comments on the child impact statement.

I direct my next point at Brian Monteith in particular. The commissioner will be a powerful champion for children for a number of reasons. The commissioner will be a statutory creation and will have independence—*independence* is always a great and powerful word. The post will be funded by the Executive and accountable to the Parliament, but it will stand apart from both and be directed by neither. Crucially, the commissioner's work will have enormous credibility because not only will children and young people drive it, they will drive how it is prioritised.

I appreciate that not everyone in Scotland will view the promotion and safeguarding of children's rights as a legislative priority. However, I am confident that most members present today will have no difficulty supporting the committee's proposal in order to ensure that, in future, the rights and interests of all children and young people are treated as a priority by policy makers and service providers. I suggest that that will go a considerable way towards making Scotland the more child-friendly society to which I am sure we all aspire.

15:16

Mr Brian Monteith (Mid Scotland and Fife) (Con): I begin by thanking the clerks, the committee's adviser and, in particular, the people who gave evidence to the Education, Culture and Sport Committee. We held a number of interesting meetings, some of which were quite revealing and informative. I also thank Jackie Baillie and Irene McGugan for the work that they did as committee reporters, not least because they took a great deal of the work load away from the remaining committee members.

This is an important debate, but one in which we should hear different views on and accounts of what is required from a children's commissioner.

The history of interest in establishing the post of children's commissioner predates the Parliament and relates directly to the adoption of the United Nations Convention on the Rights of the Child. That process was started by a Conservative Government and, in Scotland, the work was led by my colleague, James Douglas-Hamilton.

It is not too difficult for the committee to adopt a cross-party approach to the question of whether there should be a children's commissioner. That is not to say that one should welcome a children's commissioner with open arms and without question. It is only right and proper that there is scepticism—I recognised Karen Gillon's sceptical approach in the committee. Her approach is to be commended. Sometimes, witnesses must be questioned to exhaustion if one is to get the best out of them.

It is important to ask whether there is a need for a children's commissioner and what the commissioner's role would be. As the committee deliberated those questions it became clear that, if we were to proceed on a consensual basis, linking those questions together would bring about the desired result. Undoubtedly, one need only read the evidence to see that some organisations wanted what I would call an all-singing, all-dancing children's commissioner. However, I urge members to exercise caution in taking that approach. I am pleased that the committee feels the same—at least, I think it does—and I expect the bill to reflect that cautious approach.

A commissioner should be able to walk before he or she runs. If it is believed that the powers of the commissioner should be extended, it is important that the commissioner first shows that he or she has performed adequately and impressively the job that will be outlined in the bill. There is no need for the Parliament to give the commissioner too much responsibility, because he or she might then find that the office is under-resourced, lacks experience and does not have the necessary people in place to deliver. Those considerations are important to those who believe in the establishment of the post even more than I do. It does no good for the Parliament to pass laws that create positions, only for those positions ultimately to fail. It is worth taking a cautious approach for that reason.

There is such a thing as society. I say that intentionally—I am not sure whether members want me to say it again.

Scott Barrie: Say it again.

Mr Monteith: For good measure, I will say it again: there is such a thing as society. Of course, there are different views of the composition and type of society that we want—that is a good thing in a pluralist society, and I support it.

In our inquiry into the children's commissioner, the committee was particularly concerned about the commissioner's role and the interaction that they might have with individuals and families. I accept unequivocally that there is a need for a person or a body who can represent those who are not able to represent themselves, for example children who are in local authority care. It was right for us to consider the age range to which local authority care extends.

There is evidence of the abuse that can happen in local authority care not being discovered for many years, even decades. The minister will know that because she has served on at least one committee with which I am familiar. As a result, people are not brought to justice and wrongs are not put right at the appropriate time—when the abuse is happening—because people are not aware of what is going on. It is only right that we consider how to solve that problem.

I conclude that a children's commissioner, although not the only available model, could be a helpful way of giving the voice and providing the degree of security that we think children in care should have. I have noted my dissent on a number of points—two in particular—because, during the committee's consideration, I was concerned that we were asking the commissioner to go further.

Members of the Parliament should remember that the rights and powers that we have as members mean that we, too, are commissioners. We are commissioners for our constituents, whether we represent constituencies or regions. We can represent our constituents and can give them a voice. It is only right for us to be champions of people and to advocate their rights. We can advocate the rights of people of all ages, genders and races within Scottish society. Therefore, I am concerned about any possibility that a commissioner could begin to take on the job that I think we should be doing. Paragraphs 46 and 48 of the report on our inquiry into the need for a children's commissioner made me slightly concerned that we were expanding the role of the commissioner to include acting on behalf of children and young people, which is a job that MSPs are able to do.

Irene McGugan: The member presents a negative picture of what a commissioner might be in Scotland. Does he accept that throughout Europe 15 independent bodies have been established, which promote children's rights successfully in the same way that we propose for Scotland?

Mr Monteith: I accept readily that there are different models, different forms of democracy, different electoral systems and different approaches to protecting the rights of individuals. I have no difficulty about accepting that such

independent bodies exist and that they might be better than our present system. We have heard many good reasons for having a children's commissioner, but if we are to have a debate and to act as legislators, we must question hard what we will put in place. After asking questions, we might come up with the answers that Irene McGugan wants, but we must ask questions in the first place—that is one of our jobs.

Initially, the committee was excited about the role of a children's commissioner. The evidence that the committee heard tempered that excitement with the realisation that the commissioner's role had to be clearly defined and that the commissioner would have to be able to do a job. Questions had to be asked and the committee has succeeded in answering some of them effectively. For example, when we say "children", what age range do we mean? The committee has got the right answer in deciding that the term "children" applies to people up to the age of 18 and, in relation to those who are in care, to people up to the age of 21.

I was also delighted with the view that the commissioner should not investigate individual cases. That is right and proper. It is commendable that the committee is trying to place some constraint on the commissioner's role. That said, I remain uneasy about the scope of the commissioner's role in relation to general or specific family matters and I will wait to find out whether there will be detailed reference to that. If there is no reason to be concerned about that, I will be relieved when we move toward introducing the bill.

I have outlined that the Conservative party accepts that there can be a role for a children's commissioner, but our party takes a different philosophical approach to group rights. We have no difficulty with rights and responsibilities of individuals, but we are concerned by attempts to ensure that groups have rights. Groups, rather than individuals, may then become the *raison d'être* of the state and of the commissioner. By giving rights to groups, one can put some groups ahead of others and reduce the rights of individuals.

Conservatives believe in government with a light touch, but we also believe in the protection of rights and responsibilities. Where the arguments for legal change have been won, we believe that the change is worthy of support. We accept therefore that there is a convincing case for a children's commissioner, but the degree to which we support the eventual bill will depend entirely on what is in the detail.

15:26

Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD): Speaking both as a member of the Education, Culture and Sport Committee and on behalf of the Liberal Democrats, I welcome the proposal for a bill to establish the post of a commissioner for children and young people.

I am happy to endorse previous comments about the committee's indebtedness to the hard work that was done by the clerking team and by the advisers and many witnesses. I pay tribute to Karen Gillon's leadership in the last wee while—she had a nice wee holiday in between times, but perhaps I should not make such jokes—and to the work that has been done in recent weeks by Jackie Baillie and Irene McGugan, who have been our reporters and our intermediaries with those who must consider the details of how the bill should be drafted.

When we have made progress by approving the principles of the bill, I hope that the act to which these proceedings will give birth will prove to be a valuable and lasting legacy of the work that has been done by our new Parliament's first education committee and of the work of the Scottish Parliament as a whole. I will not go over all the principles, as they have been outlined already, but as the establishment of a commissioner has been Liberal Democrat policy, I fully endorse the proposal and welcome the Executive's support.

Some have asked whether the commissioner will be just another layer of bureaucracy, but that will not be the case. The commissioner will be a new, significant and unique office that will provide a focused approach to the promotion and safeguarding of the rights of children and young people. The role will be significant, because not only will the commissioner be in a position to influence decision making at the highest level, but he or she will take the perspective of the rights and interests of children and young people as the starting point.

The role will be unique because of its independence and statutory status—as Irene McGugan mentioned—and because the commissioner will have a broad remit that will cover all children and those young people who are most in need. The idea of the commissioner's having an overview of all policy issues pertaining to children's rights is something special. The commissioner's work will, of course, be informed by children and young people.

I want to spend a moment or two on the commissioner's relationship with young people. The work of the commissioner's office will be informed by the views of children. Indeed, the bill will place on the commissioner a duty to involve children. How that is done every day will be for the

commissioner to determine as part of a longer-term strategy. As Irene McGugan said, the committee recognises that it would not be possible for the commissioner to deal with individual youngsters, but we expect the commissioner to explore different means of contacting youngsters.

Among the different means that the commissioner might explore are interviews, surveys, discussion groups and participatory events. In the long term, the commissioner could also work through existing networks and structures, such as youth parliaments, schools councils and children and young people's forums. In addition, the commissioner might use the media or modern communications technology. There are plenty of examples of good practice. The committee engaged organisations such as Children in Scotland to help us consult and be in touch with young people. We want the commissioner to take an innovative approach, as has been done by the children's commissioner for Wales.

The commissioner's relationship with the Parliament will be important. Although the Executive will pay for the children's commissioner, the post will not be an Executive appointment, which is important. The bill to establish the post will be a committee bill, and the Parliament will appoint the commissioner. I hope that the commissioner will have a good rapport with the Education, Culture and Sport Committee, and that he or she will use that avenue to influence the Parliament. The commissioner will be independent.

As Brian Monteith said, individual MSPs will still have a role in being advocates for children. I hope that there will be exchanges of views between the commissioner and MSPs. The Parliament will not have to jump to do what the commissioner says, but the post of commissioner will have a status, and I expect that his or her views will be influential.

As Alex Neil said, a lot will depend on who the commissioner turns out to be. The appointment of the first commissioner will be important, because he or she will establish the rapport with the Parliament and with children that will be vital to the success of the post.

The commissioner will need to work with other agencies. The voluntary sector accepted in its evidence to the Education, Culture and Sport Committee that the commissioner would add value and provide a necessary overview. I hope that the relationship between the commissioner and such organisations will be co-operative and informal, and that they will share goals but, ultimately, the relationship should recognise that the commissioner is independent and has a particular kind of influence.

It is not for the bill to prescribe the commissioner's relationship with the media, but we expect that the commissioner will seek to establish a media profile by proposing ideas on children's rights. I do not doubt that the media will ask the commissioner for his or her views on issues relating to children.

As Cathy Jamieson said, there must not be too much overlap between the work of the commissioner and other bodies, such as Her Majesty's Inspectorate of Education, the social work services inspectorate and the human rights commission, once it is established.

Karen Gillon said that I would mention devolved matters. We believe that the commissioner will establish a profile in the media. He or she will be asked to comment on matters, and therefore will be asked to comment on matters that may resonate outside a devolved Scotland. It is intended that the commissioner will be able to comment on reserved matters if they are incidental to the commissioner's functions. After all, children's rights and a network of life issues—for example poverty, benefits, social work, housing, the Child Support Agency, youngsters whose parents are in different countries, and double jurisdiction—do not stop at the border. Those issues form a complicated nexus, and people cannot always be placed in boxes. Those problems do not stop at a line drawn in the sand.

The commissioner will have moral authority, and will be able to comment on issues that cross those boundaries. Such comments will be distinct from the comments that we could make. If we refer to reserved United Kingdom legislation, it may be thought that we carry political baggage and that we are trying to score political points by criticising the Government at Westminster. If properly established and properly run, the position of children's commissioner would have a moral authority that detached it from being viewed in that way. The commissioner would speak on behalf of children everywhere, not on behalf of a political party and not from an anti-unionist stance. That is important and unique.

In opening, I said that the establishment of a commissioner for children and young people would be the committee's and the first Parliament's legacy to the children of Scotland. I could have said that it would be a monument to our work, but that was too lifeless and static. If I had said that the commissioner would be a figurehead, that might have suggested a lack of strength and active power.

If I say that the creation of the commissioner's post is a symbol of the Parliament's commitment to children and to providing justice and opportunity for all our children, I hope that people will understand that, although symbolism is important,

it will be of value only if we appoint a commissioner who fulfils all the duties, obligations and commitments that are embodied in the proposals.

I look forward to the passage of the bill, the completion of an act of Parliament and the appointment of a sympathetic, powerful and effective commissioner. As I said, the personality is important. It is unfortunate that Alex Neil has ruled me out of the post, partly because my shirt is fully stuffed and I am past middle age. Moreover, we could not wait two years to appoint me as commissioner.

The post is important and will be an honour for whoever is appointed to it. That individual will carry the hopes of the Parliament with them and will have much to contribute to a better future for children in Scotland.

The Deputy Presiding Officer (Mr George Reid): We move to the open debate. Although members can make speeches of up to six minutes, we may finish early.

15:36

Jackie Baillie (Dumbarton) (Lab): I start with a quotation:

"Children really don't get listened to at all".

That was a comment from a child who attended a youth event that the Parliament organised in December last year to consider whether a commissioner for children and young people was needed. It is to ensure that we listen to and hear young people that I particularly welcome the Education, Culture and Sport Committee's report. Some would say that I am slightly biased, as I am a member of the committee. That is true, but we have arrived here after months of consideration and of listening to children and children's organisations throughout Scotland. I welcome that contribution.

I look forward to the publication and enactment of the committee bill. As members know, the creation of a commissioner for children and young people will make a key contribution to closing the opportunity gap for Scotland's children. We all know that we need good-quality, well co-ordinated children's services to break the cycle of poverty that all too often starts from the earliest years, to close the opportunity gap effectively and to deliver social justice. Not only will the commissioner have a role to play in ensuring the accountability of those services, but they will be the champion of children's rights and will promote and protect their interests.

Mr Monteith: I am grateful to the member for delineating our different approaches. If the commissioner is to take an interest in social

justice, how would the member react if the commissioner said that comprehensive schools were failing the children of Scotland?

Jackie Baillie: All members would react with interest to such a comment, because, by any measure and any standard of evidence, the comprehensive system is not failing Scotland's children.

Other members have outlined the commissioner's key work, which will be promoting awareness and understanding of children's rights among not only children but adults, underpinned by the United Nations Convention on the Rights of the Child; promoting best practice; keeping under review the law, policy and practice to ensure that children's interests are properly considered; and investigations. I will focus my speech on investigations.

The committee reached the consensus view that the commissioner should have the power to conduct generic investigations, but not investigations into individual cases. I will develop that point in a minute. First, I will outline the scope of the commissioner's powers. The commissioner should have the power to conduct investigations of any body or organisation that provides a service to children; that covers the public sector, the private sector and the voluntary sector. The commissioner should also have the power to require the production of documents and the attendance of witnesses during the course of an investigation. The committee agreed that failure to co-operate should be treated as a criminal offence. There was also consensus about the requirement for the commissioner to publish and lay before the Parliament reports of all investigations that are undertaken, so that they are open to public scrutiny and comment.

Alex Neil: I am fairly new to the debate and I seek a genuine point of clarification. Where is the borderline between an investigation into an individual and the investigation of an organisation or body? Under the committee's proposals, would an investigation be allowed into—for example—allegations of abuse in a children's home or an organisation that ran children's homes, or would that be regarded as an investigation into an individual and therefore disallowed?

Jackie Baillie: It would be allowed in the case of an organisation that runs a children's home. Let us take the example of a child who is being failed in some way by a particular service. The commissioner would not take up the case of the individual child, but would have the power to investigate the circumstances of the complaint. It might be helpful for the member if I give some examples—I will do so in a second.

The committee believes strongly that the distinction that we have made strikes the right

balance. We wanted to ensure that the commissioner could fulfil their overarching policy role and champion the rights and interests of all children rather than take on work that is already done by other organisations. One example of that would be the case of a care provider not meeting adequate care standards, which would be a matter for the Care Commission. The committee does not believe that there is any point in duplicating a process that exists already. The commissioner should not be the court of last resort. We want the commissioner to work with the Care Commission so that children's interests are taken on board.

On the other hand, if a general issue arose about the availability of legal aid, the commissioner could consider an investigation into the way in which children's rights, interests and views are taken into account in the provision of that service. It is important to note that that would not prevent the commissioner from taking on board the outcomes of investigations into individual cases so as to inform consideration of a much more generic investigation.

The committee's view of the commissioner's role is that it should be proactive rather than reactive. The commissioner should be able to make a much wider impact for all children, rather than for one child. We also want to avoid duplication. The aspect of the commissioner's work that will create the maximum impact is the mainstreaming of consideration of children's interests throughout all organisations and bodies that have an impact on their lives.

When the myriad issues that affect children in Scotland are taken into consideration, it is right that the role of the commissioner will be wide ranging. The children who are most marginalised and disadvantaged in our society, often from the earliest years of their lives, have the weakest voices. In speaking for all children, the commissioner must ensure that all their voices are heard.

Concern for children is not simply the responsibility of the commissioner. It is a responsibility for us all. Only when people from all different perspectives—whether as parents, teachers, social workers, nursery nurses or one of the many others who impact on children's lives—consider the interests of children will we achieve a step change.

I want to talk briefly about society; I cannot resist Brian Monteith's invitation to respond. Brian Monteith attempts to rewrite his party's history. By all means, he can say, "There is such a thing as society." However, his actions expose those comments as nothing more than meaningless rhetoric. I have long believed that a society is judged by how it treats its children, older people and those who are most vulnerable. A

commissioner for children and young people would help to make our society a much better place for children in the future. As Karen Gillon rightly said, that would make a fitting legacy from the Parliament to the children of Scotland.

15:45

Mr Kenny MacAskill (Lothians) (SNP): I do not have the same detailed knowledge of the issue as most of the previous speakers, who are members of the Education, Culture and Sport Committee and have discussed the detail of the report. However, even though I do not sit—and have never sat—on the committee and even though the issue is not part of my brief, I make no apologies for seeking to speak in the debate. I believe that the issue is important; indeed, before I was elected as an MSP, I was heavily involved in children's rights in areas such as adoption. As a result, I feel reasonably well qualified to speak this afternoon.

The Parliament itself should make no apologies for debating the issue. Earlier this week, we were criticised individually and collectively about the nature of our debates. I cannot comment on whether the individual who made that criticism would find this debate irrelevant and claim that it brings the Parliament into disrepute. However, I have no doubt that it would form part of the general thrust of those comments.

Like most members, I accept the primacy of our economy as an issue for debate and believe that economic growth is essential, or all ages and all sectors of society—including the weakest and the most powerful—will suffer. However, it is not simply a matter of having a society that produces robots or cogs in the economy. As Jackie Baillie said, our society goes beyond economic matters. We are not automatons and our society should not be run by some oligarchy in a few boardrooms. We need to examine the broader interests of society, not simply the dynamic of its economic growth. Jackie Baillie was right to point out that a society is not judged by the nature and state of its economy, but by how it treats individuals as human beings and, more important, by how it treats its weakest and most dispossessed people rather than those who have the most clout. As a result, we should make no apologies for debating this fundamental subject.

We should accept that, in this respect, we are trying to be prescriptive. Cultural attitudes in Scotland present us with a considerable problem. As our previous debates on health, legal matters or even the carrying of knives have made clear, we have a culture in Scotland that perhaps originated in the maxim that children should be seen and not heard. As a result, our society is not child-friendly. I do not believe that, in my lifetime,

we will be able to replicate a Latin-type society that is much more outgoing and extrovert in the way that it treats its children—perhaps we do not even want to have such a society.

However, I have to say that Scotland's current problems have worsened. They have been exacerbated partly by how the media has reported various matters. I am a parent myself, but when we reach a situation in which parents believe that their children will be kidnapped and murdered and in which parents consider implanting a chip in their child so that they know where they are, we have to wonder about the kind of society that we have allowed to develop. Although we face a problem with various individuals who are at large in society or who might be released into society, we must address that problem without scaremongering. In any case, we have to look after our children's interests.

As I have said, I believe that this is a cultural matter. It might be difficult for the Parliament or a commissioner to tackle, but we must seek to provide a framework that underpins the fabric of society. Although it might be difficult to stop children carrying knives in Glasgow or elsewhere on a Friday or Saturday night simply by introducing legislation, that does not mean that we should not do so in order to crack down on the problem. All legislation does not have to be prescriptive and enforce certain matters; it can encourage and support certain sectors or attitudes.

The commissioner's job will grow and develop. A lot will depend on what the individual does or creates, whether or not he or she is a "stuffed shirt". Perhaps matters will develop only after several commissioners have been in the post. We will not change the nature of our society simply through this bill or the appointment of one individual for whatever term. However, we are going in the right direction.

The minister was correct to point out that many of the matters that come under scrutiny may be subjects that will be discussed, debated and passed by the Executive or by the Parliament. That is quite right and fair. We are a unicameral chamber only and we are not the fount of all wisdom. If a commissioner should say that we are not going in the right direction, we as representatives should be big enough to accept that criticism. We should take it on board and try to address and change matters. We are products of our backgrounds and of the culture in which we grew up. It is important, therefore, that somebody should challenge everybody, including those of us who are elected as parliamentarians.

I believe that we must approve and support the establishment of a commissioner. I do not believe that taking the society angle is contradictory to

trying to get a healthy economy and a vibrant society. Far too many children in our society are born to fail. Those in the boardrooms of our society who seek to espouse and represent their interests should recognise—indeed, they have been commenting on the fact—that we face a skills shortage and a labour shortage. If we create a section of our society, especially in the younger age group, that is marginalised and doomed to fail and will not be economically productive, those young people will be losers but our economy will also be the loser. We must go out of our way to create a better society. In doing so, we will create a better economy. This Parliament should therefore make no apology for debating the establishment of a children's commissioner or for bringing the post to fruition.

15:51

Johann Lamont (Glasgow Pollok) (Lab): I welcome the opportunity to speak in the debate. I am aware that many of the members present—probably most of them—know a great deal more about the detail of the proposal than I do. However, I recognise that it is an important issue and I declare an interest, as the mother of two young children, who sometimes feels that the world is far too child-friendly and not sufficiently mother-sympathetic. I was also a schoolteacher for 20 years and was tested, on occasion, on my willingness to feel the pain of the child as I tried to manage the other 29 in the class.

I support any initiative that protects children from abuse and encourages them to see that they can play a positive role in their communities and in broader society. Too many young people—particularly vulnerable young people—are told about citizenship at school, but see precious little evidence of their rights as citizens in their own lives. There are mixed messages about children, not just in the chamber but more generally in our communities. We should avoid trying to see policy making in boxes. When we talk about children participating, the message is soft and gentle and says that we must listen to them. When we talk about crime, we wonder how big will be the poles that we will put heads on in order to deter others from crime.

As Kenny MacAskill said, we are aware of the levels of anxiety and distress that we all experience when we hear about some of the dreadful things that happen to children, and we fear that our own children and those of other people might also suffer such abuses. We also know that, as we speak, children are suffering abuse and neglect, and we know that they pay for that not just as children but in their adult lives. I may be the only member who watches "Kilroy", but we hear evidence every day on such programmes

of adults living through the pain of the experience of being neglected and abused as children. It is not just about what children suffer, but about what they will bring with them into their adult lives.

We also know that children and young people can cause great harm and problems within communities, and much of our recent debate has reflected that. There are many aspects of childhood and of society's attitude to young people. That creates a complex picture of the experience of children and young people and presents us with a challenge as to how those issues can be addressed.

I accept the need for a children's commissioner, but I would like to raise a number of questions that other members might be able to respond to. Indeed, some of the points that concern me have already been referred to. I am interested in why the age limit has been identified as 18, or 21 for looked-after young people. There is a serious debate about when childhood ends and adulthood begins and what we should call the bit in the middle. That is reflected in much of the serious debate surrounding the proposals for pilots in the children's hearing system for 16 and 17-year-olds. There is a contradiction and a mixed message. There are people who would argue for increased responsibilities for young people of 16. The right to vote is a good example of that. At the same time, those people want everyone who is under 18 to be treated as a child in relation to the commission and children's legal rights.

It is important to reflect on that. Perhaps the commission will have to do more work to differentiate between age groups and levels at which young people operate. It is self-evident that a child of four has different needs and capacities from someone who is 17. In developing policy, we must reflect the fact that children at different stages have different needs, that they must be protected in different ways and that they have different abilities to articulate their concerns.

We must be aware that, on occasion, the actions of some young people can directly impact on the experiences of other young people. The commissioner will provide an opportunity to get young people to reflect on that. I hope that one of the commissioner's roles will be to encourage young people to focus on that debate.

It is important to realise that children are not a single, coherent group—I am speaking about not only age, but access to the work of the commission. That access will depend on children's levels of vulnerability and disadvantage. Those who most need to be heard might not be heard at all. Some parents do not have the same power as others in the community, some children do not have parents who will fight on their behalf and others have parents who are part of the problem.

How will the commissioner prioritise his or her work? How will the breadth, range and diversity of voices be heard? The loudest and best-resourced voices should not receive the best hearing. My fear is that the capacity of children and young people to access the power of the commissioner will depend not on their needs, but on the capacity of the adults around them to access that power. The danger will remain that inequality among children will be reinforced rather than challenged.

I am anxious about how we deliver for children. I often mention the example of young people who do not attend school. When, on occasion, a local authority education department challenges through the legal system parents who do not bring their child to school, there is a shift in the discussion from why the young person finds it difficult to attend school to a legal debate about whether the evidence that the young person attended only 22 per cent of the time is true. The discussion moves from why the young person does not go to school to whether it is possible to prove that some of the absences were real. Such cases against parents often fail. In that situation, the focus on the young person and their problems is lost. Only in the most extreme circumstances should we move into the legal system, which focuses on proof and lack of proof rather than on young people's needs.

Children have basic rights. Among many others, they have the right to basic security, warmth and peace of mind and the right to be well parented. Children have the right to be heard when they are in dangerous or abusive situations and the right to an education. Many of those rights would be properly established if those who have responsibility for protecting children—parents, social services, schools and local communities—took that responsibility seriously. It has been suggested that the commissioner should have a great personality, but in my view, children do not need a saviour. They do not need teachers who do back flips. They need someone who knows how they ought to behave and who acts on that. I hope that the commissioner, who will never on their own deliver an integrated service for young people, will have plenty to say about those who do not pursue their responsibilities rigorously.

One of my fears is that we will simply satisfy our need to be seen to do something for children and young people who are vulnerable and who have difficulties. I am afraid that, if we do not set up the right systems, we will leave many children vulnerable and abused and unable to tell anyone about it. Robust dialogue with young people is important. We should not say, "Yes, you are absolutely right," and then create systems that do not listen at all.

I support the establishment of the commission,

but it must not be a substitute for establishing rigorous procedures and practice for all those who work with and for children and young people. I hope that those who claim to speak on behalf of young people and who seek to represent them are challenged to ensure that they listen to the quiet, disadvantaged and excluded voices when they go to the commission. Those people must ensure that the representation is real. In that way, our young people will receive the protection to which the committee's proposals aspire.

16:00

Mr Jamie McGrigor (Highlands and Islands)

(Con): A recent chamber debate centred on a report of the working group on throughcare and aftercare of young people leaving the care system in Scotland, which was published by the Scottish Executive. The report highlighted the disadvantages faced by looked-after children in Scotland. For example, up to 75 per cent of looked-after children leave school with no formal qualifications and it is estimated that between 20 per cent and 50 per cent of young homeless people have been in the care of a local authority.

The report recommended that greater efforts should be made by local authorities to monitor the progress of young people after they have left care and to assist where necessary. The Scottish Conservatives were happy to support such recommendations, but were keen to point out that many problems that young people experience after they leave care are often simply the legacy of bad experiences while in care. We argued that more must be done at an earlier stage and lodged an appropriate amendment to the motion.

The evidence presented to the Education, Culture and Sport Committee by Barnardo's, Children 1st and many other organisations highlighted problems that children and young people face while they are in care. Children 1st works with children in the care system. In its written evidence to the committee, it stated:

"Many 'looked after' children still do not enjoy the same basic rights and opportunities as other children; to care, intimacy, safety, schooling, to their own possessions."

It was also said that, too often, children and young people in care do not speak out about their experiences of neglect or ill treatment. Some young people simply do not know who to turn to. Others do know, but fear the consequences of speaking out. For such children and young people, an independent children's commissioner could make a real difference. A commissioner could listen to their concerns and speak out on their behalf.

Children in care lack the stability and security of a loving family. It would be unrealistic to expect

local authorities to replace that, but it is reasonable to ask them to do their best to provide some sort of stability for such fragile young people. Unfortunately, however, many children in care are moved from temporary placement to temporary placement and are not given the chance to find stability. Perhaps a children's commissioner could consider that issue.

There is evidence to support the need for a children's commissioner to champion the rights and welfare needs of young people, but mainly when they are placed in care. It has been identified that children—children in care in particular—tend to be shy about communicating embarrassing or unpleasant problems. Things are doubly difficult for children in care, and any future commissioner's key function should be to make it less difficult for children to communicate their worries. It appears that the commissioner will not have the power to investigate individual cases, so it will be important for them to concentrate on avenues that make it easier for children to speak out about abuse or infringement of rights without fear, and on avenues that ensure better protection of young people who do not have the benefit of a secure, loving and understanding family.

Johann Lamont: Does the member accept that young people sometimes end up being looked after by their local authority or in care precisely because of their experiences in families? There is an issue of balance. It must be recognised that sometimes the safest place for a young person is away from their family and in care. The member is almost in danger of suggesting that the care system is the problem and not addressing the broader reasons why young people end up in care. That probably undermines good work that is done with young people who end up in care and rely on people who are not from their family to support them in a way that their family has been unable to do.

Mr McGrigor: I take the member's point, but we are saying that the commissioner will be best placed to try to work towards ways of making life better for children in care.

In the past, Governments at Westminster have not seen the need for a children's commissioner, but there have been recent calls for a commissioner to be created. In 2000, a commissioner was created in Wales and it is probable that there will shortly be a commissioner in Northern Ireland. In both cases, the investigative role is confined to public bodies, which is important.

We do not want a commissioner who has the power to interfere unnecessarily with the rights of parents. In my view, the changes in family values that have led to many broken homes increase the need for protection of young people, but there is

already a mass of existing provision and bodies in Scotland to protect children. The last thing that is needed is confusing duplication. The commissioner's role must be simple and clear and must add real value to the current situation. In our view, the main role of the children's commissioner should be to help children in care and to investigate public care services. We do not think that the commissioner should be able to investigate private bodies, as that is a job for the police and Government.

The most important factor in the welfare and evolution of children is still the influence of parents and families. We would be concerned if, under the pretext of championing children's rights, the commissioner interfered with the rights of parents.

As Alex Neil says, the choice of commissioner is of the highest importance. He or she will have to possess great practical experience of social work combined with first-class investigative skills.

16:06

Scott Barrie (Dunfermline West) (Lab): Karen Gillon said that some people might find the recommendation from the Education, Culture and Sport Committee to be nothing more than political correctness gone mad, or another example of the nanny state or of Parliament wasting time. Kenny MacAskill's speech would provide a good refutation of those points if anyone were to make them, as he showed the direct connection between how we value our young people and how we stimulate economic growth in the future.

I am not a member of the Education, Culture and Sport Committee, but I speak in favour of its proposal for a commissioner.

I take issue with several points that Jamie McGrigor made, which echoed some of what I thought Brian Monteith was getting at. I was going to ask Brian whether I had grasped correctly what he meant, but I think that Jamie said it for him.

Brian Monteith's point, echoed by Jamie McGrigor, seemed to be that he supported a commissioner but only as a regulator of the public care system. If that is the line that he is going down, he has totally missed the point of the committee's proposal. I am surprised that a member of the Education, Culture and Sport Committee has not realised what the proposal is all about.

People are already entrusted with regulating the public care system. It is possibly one of the most over-regulated parts of our state. Sometimes the public care system does not get it right, but Johann Lamont made a valuable point in her intervention about the problems that young people have before they go into the care system, which

may or may not be exacerbated by their experiences in the system. Those problems set in train many of the poor outcomes. A line of argument, although it is not one that I have often advocated in my professional career, is that one of the reasons why the public care system “fails” in the way that it does is that children enter it too late and are not saved from the loving families that Brian Monteith and Jamie McGrigor portrayed.

Brian Monteith also suggests that we do not need a children’s commissioner if the person who holds the post will interfere in the private family arena and that perhaps MSPs are the best people to represent young people as they are constituents. We must all accept that if there is a choice between the rights of a voter who is over the age of 18 and the rights of someone under 18, most politicians—I think that this was evidenced in some of the comments made in the debate last week on the Criminal Justice (Scotland) Bill—consider over-18s to be their prime responsibility.

I am not aware that Brian Monteith, who is a list member for the region that includes my constituency, has conducted a school surgery in Dunfermline in the past four years. I do one every two months.

Mr Monteith: It is outrageous to state that members of the Parliament put the interests of older people first—ahead of the interests of young people who write to them, or those of young people on whose behalf someone writes to them. I have taken up a number of constituency issues, including one that had previously been taken up by Scott Barrie with regard to the problem of a young person. I did not think, before considering the matter, that I could not take the matter forward because of the person’s age. That is a dreadful slur, not particularly on me but on all MSPs.

Scott Barrie: If Mr Monteith is talking about the case that I think he is, I point out to him that it was not the young person but the young person’s parents he was representing. Indeed, that illustrates my point.

In the debate on criminal justice last week, the children’s rights agenda was not discussed in any detail by most members because we were talking about the issue from a societal and parental point of view. I make that observation as a way of saying why it is important that we have an adequate added voice for young people.

Paragraph 17 of the report talks about involving children and young people, consultation, participation and accessibility. Last year, Nora Radcliffe and I attended the “Breakthrough” conference in Fordell, just outside my constituency, which was organised by the Scottish Throughcare and Aftercare Forum. It was interesting to sit for a whole day and listen to how

cynical some of the most disadvantaged young people in our society are about the fact that their views are constantly ignored or not listened to. An experience such as that reinforces why we need to take the committee’s proposal seriously and act on it.

Johann Lamont raised the important issue of age. The use of the word “children” in the commissioner’s title might be confusing as a large number of older teenagers would abhor the idea of being referred to in a way that had anything to do with children. We have to remember that the children’s hearing system was developed at a time when the school leaving age was 15 and the voting age was 21. We now have a school leaving age of 16 and a voting age of 18. As we change our definitions of age, we have to think carefully about the language that we use and the concepts behind our language.

I should like to suggest some things that the committee should take into account when working on the bill. I do not want to criticise the report, but I want to offer the committee some pointers in relation to what the commissioner might do. We should not try to reinvent the wheel. A number of organisations and people such as guidance teachers, children’s rights officers in local authorities and effective youth leaders adequately represent the interests of children, and we should not overlook the valuable work that they do.

The commissioner should perhaps examine the role of safeguarders in the children’s hearing system. Under the Children (Scotland) Act 1995, consideration of appointment of a safeguarder must be undertaken at every hearing. The quality and ability of safeguarders is variable between and within local authorities. If the commissioner is supposed to encourage the replication of good practice, a comprehensive examination of that system might be useful.

I support the proposal and congratulate the committee on the hard work that it has undertaken.

16:13

Alex Neil (Central Scotland) (SNP): I believe that this will be one of the first bills to be introduced by a subject committee of the Scottish Parliament. I hope that this welcome innovation is the first of many such bills that will come from the committees. The committee bill process is productive and allows a consensus to be built on issues that we all want to deal with.

Like Karen Gillon, I started off as a bit of a cynic and wondered why we needed a children’s commissioner. However, having read the material and the evidence submitted to the committee and having listened to the debate this afternoon, I am

in no doubt that there is a need for a children and young person's commissioner. I would like to make a number of points about the commissioner's remit and work programme.

I have already referred to the qualifications that I think a commissioner requires, one of which is not to be a middle-aged male who wears a grey suit but someone who is qualified for the job. The main qualification should be a facility and ability to communicate effectively with children as well as the wider community. When we come to the appointment, we should consider appointing someone who is fairly young—perhaps even under the age of 30—so that we send out the right signal: that the commissioner is not another bureaucrat or part of another quango, but exists to serve a specific section of the community. The commissioner should be able to communicate effectively with that section of the community.

I remember how important it was when I was a social worker in Kirkton in Dundee to be able to speak to people and have two-way communication with them. It is essential for the commissioner—all appointees—to be able to do that.

On the remit, I asked Jackie Baillie about the distinction between being able to investigate individual cases and considering generic issues. We discussed the example of the potential for abuse of children who are in care. Jackie Baillie's reply was that the commissioner would be able to investigate an organisation if there was an issue in that organisation, but could not take up an individual child's complaints. It will be important to be clear on that point when we legislate. I am not advocating the creation of another layer of investigation by the police, social workers or the Scottish Commission for the Regulation of Care. However, if, for example, a number of children go to the children's commissioner and make a complaint about a care home or a care organisation, will investigation of those cases be within or outwith the commissioner's remit?

Johann Lamont: Would not the member hope that the commissioner would investigate why the care home or whoever regulated it did not respond before six youngsters got to the stage of going to the commissioner? The issue is reinforcing the procedures rather than the direct link between individuals and the commissioner.

Alex Neil: That is precisely my point. If a group of children went to the commissioner first, I imagine that the commissioner would refer the matter to the Scottish Commission for the Regulation of Care or, in some cases, to the police. However, we should not draft the bill in such a way that, when children go to the commissioner, the commissioner feels as though it is outwith their responsibility to do something.

My point is that the drafting of the bill on that point will have to be precise and clear so that it is not unduly prohibitive. I take the point about not wanting at this stage to give the commissioner the ability to investigate individual matters. Nevertheless—[*Interruption.*] I am sorry. Alex Salmond is making a point about his speech on my pager. [MEMBERS: "What did he say?"] I am not telling. It is a secret. [*Interruption.*] Excuse me. The trouble is that it is not possible to reply on a pager.

I make the point about the remit for individual cases.

On the commissioner's work programme, the commissioner should take up a number of issues. I will make a general point before I mention three or four areas in which the commissioner has a role. Karen Gillon stressed the point in her introductory speech. The commissioner will not be an Executive appointment or an Executive appointee; they will be a parliamentary appointment and a parliamentary appointee. That is absolutely right, because the commissioner is independent. However, if the commissioner is critical of the Parliament, the committee, the Executive or political parties, the Parliament, when it comes to the reappointment after five years—and unlike the House of Commons when the post of parliamentary commissioner for standards came up for reappointment—must be big enough not to use that as an excuse to get rid of a person who is prepared to stand up, face the truth and report honestly. The appointee must be fearless and prepared to face the Parliament, even when they think that the Parliament has done something wrong or has not done something that it should. I hope that the committee will consider that point and perhaps make recommendations on it.

I would suggest that, in the fourth year of the commissioner's term, the year before reappointment, we ask the commissioner to review, with the Education, Culture and Sport Committee, whether her or his powers are adequate, and establish whether there is a need to extend the commissioner's powers, possibly with regard to some categories of individual cases. A review of the commissioner's powers after four years' experience would be useful, although we might not be able to incorporate that into the bill.

I wish to mention some areas of concern that I hope the commissioner will be able to take up. The first is that of special needs. In dealing with constituency cases, I have been struck by the fact that there are particular categories of children who, despite the various infrastructures that are in place, are still not properly served by the system, specifically children with Asperger's syndrome or other conditions in the spectrum of autism. We have not yet got our act together at a local or

national level to deal with children in such categories. The needs of children who find it difficult to articulate their own needs particularly require to be addressed.

In this country, a child of a middle-class professional family has an 80 per cent chance of going on to university, whereas the child of an unskilled worker has only a 14 per cent chance. I would like the children's commissioner to find out why that is the case. There is clearly an economic angle to that statistic, but I do not think that the argument is uniquely financial, and the issues around the conditions of children need to be investigated.

There is also the matter of getting children's point of view on, for example, television violence and the influences on their behaviour, both when they are children and in later life. Finally, there is an urgent need to examine the particular needs of child carers, whose requirements we still have to meet.

I hope that those were useful suggestions—they were certainly intended as such. I totally support the proposal before us.

I will go and phone Alex Salmond now.

16:22

Elaine Smith (Coatbridge and Chryston) (Lab): I am not a member of the Education, Culture and Sport Committee, although I am a member of the cross-party group on children and young people. Like other members, I congratulate the Education, Culture and Sport Committee on its report, and I pay tribute to the hard work that has been carried out on this issue. I single out the committee's reporters in that regard.

I am delighted—as are, I am sure, all the organisations, cross-party groups and individual MSPs who have championed the issue—that the Parliament is now taking what I would view as clear, decisive steps towards establishing the office of commissioner for children and young people. In my members' business debate on the United Nations Convention on the Rights of the Child, which took place in February 2000—the motion for which was supported by the cross-party group on children and young people—the potential benefits of and the need for a commissioner for children and young people in Scotland were raised by me and by a number of other members. It was indicated by the then convener of the Education, Culture and Sport Committee, Mary Mulligan, that the committee intended to undertake an inquiry into the issue.

At the time, it was not just back-bench MSPs who were unconvinced about the proposal to establish the post of commissioner. The then

Deputy Minister for Children and Education, Peter Peacock, outlined the Executive's position. He said:

"The proposition is superficially attractive, but the Executive wants to be sure that the attractions are more than superficial ... We must ensure that if we have a commissioner, everybody is on board about what that commissioner ought to do ... The commissioners that are referred to in other countries do different things. Other countries do not have the same support systems as we have for children's services. We must be clear that the commissioner—if we are to have a commissioner—will add something to the present situation and design of services.

The Executive wants to be clear that a commissioner would not replicate, usurp, or conflict with, existing arrangements."

The minister went on to say:

"However, I want to make clear that we do not have a closed mind. If a commissioner can genuinely add something positive to the existing range of provision, we are prepared to consider it."—[*Official Report*, 3 February 2000; Vol 4, c 838-9.]

Today it is important that we cast our minds back to that and acknowledge that the Executive has listened carefully to the debate on the issue.

I am delighted that, with the publication of the report of the Education, Culture and Sport Committee, we seem to be moving closer to the objective of having a children's commissioner in Scotland. A children's commissioner would be an invaluable tool in helping Scotland to meet the international directives outlined in the UN Convention on the Rights of the Child. By functioning as a children's champion and by providing a collective voice for children and young people throughout Scotland, a children's commissioner would play a crucial role in the promotion and empowerment of children and young people. A commissioner would help us to meet the requirements of article 42 of the convention, which states:

"States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike."

By facilitating a more co-ordinated approach to children's issues, we will take a major step forward in ensuring that the interests of children and young people are addressed fully. The co-ordinated perspective that a children's commissioner would provide is necessary because every law or policy decision that Government makes has an impact on our children and young people. A commissioner would help to ensure that service providers and policy makers viewed children's rights and interests as a priority.

Is the deputy convener, who will sum up the debate, or the minister able to clarify the position in those cases that do not fall neatly into either devolved or reserved areas? I am particularly concerned about the situation of refugee or

asylum-seeking children who live in Scotland. I hope that that issue can be addressed either today or at some point in the future.

I would be grateful if, in her closing speech, the minister would comment on Save the Children's suggestion—which Karen Gillon supported in her speech—that the legislative framework for the children's commissioner should at the very least allow for the commissioner to comment on reserved issues. If the minister has already addressed the matter, that is fine.

Cathy Jamieson: Because this is a committee debate, I do not have the opportunity to make a closing speech. However, I understand that, in her summing-up, the deputy convener will deal with the issue that Elaine Smith raises.

Elaine Smith: I did not realise that the minister would not be making a closing speech.

Today, many issues have been raised on which the commissioner could be expected to make a difference. The minister mentioned tackling child poverty. Other such issues are the need to protect children from abuse and violence, and the need to promote the interests of children from black and ethnic minority groups, including Gypsy Traveller children. During its inquiry last year into travelling people, the Equal Opportunities Committee heard some heartbreaking stories. Some children felt that society treated animals better than it treated them.

The commissioner could also promote issues such as access to free drinking water in schools, the child's right to play and the child's right to be breast-fed by his or her mother without her being harassed or sent off to unsuitable places. MSPs can raise such issues and advocate children's rights, but they cannot devote themselves solely to that task. As Brian Monteith knows, a children's commissioner would be a champion of children's and young people's rights, and would be in a position to concentrate on co-ordinating, monitoring and promoting issues that affect children's rights and interests. According to the committee's report, the Parliament would receive an annual report and reports on investigations, to enable an exchange of views to take place. Policy and law would be made in the chamber.

I welcome the report and pay tribute to the committee for its hard work, which has brought us to this stage. I urge Parliament to agree to the proposal.

The Deputy Presiding Officer: Members will have noted that, during the debate, I was unduly generous in allowing overruns. We are almost back on schedule—we have three minutes in hand.

16:29

Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): It falls to me to wind up for the Liberal Democrats. I join Alex Neil in congratulating the Education, Culture and Sport Committee, its convener and all those who were connected with the report on producing what will become, in effect, the first subject committee bill to come before the Parliament. That reflects one of the basic principles upon which the Parliament was set up, so this is an important day.

I have listened to the debate with great interest. I used to be a member of the Education, Culture and Sport Committee, until late on in 2000, when there was a reshuffle and I was moved to a place a mile from here to help build the new building down at the end of the royal mile. Mr Jenkins got my job and I have missed the committee ever since, but equally I quite enjoy my bricks-and-mortar exploits down the way. The subject of children was not at the forefront of my mind today—at least not in a good way, because while I was showing the Solicitor General for Scotland around the Holyrood site, I received a text message from one of my children saying that I was to pay a £147 bill for school books. Members can imagine that that did not exactly flag up children as flavour of the month with me.

The debate has been extremely useful. The convener of the Education, Culture and Sport Committee, Karen Gillon, in her thoughtful and thorough speech, made a number of points that I found persuasive and attractive. She talked about evidence coming from children and young people. I remember in my final days on the committee that that was important to its members. She said that we must also be careful to hit back at cheap jibes about political correctness—I will return to that point when I close. Karen Gillon talked about a power and authority designed to make a difference for children and only for children, and mentioned the issue of disabled children who need care. She said that the work that the committee has carried out—in the Alex Neil sense, as it were—will surely encourage members of other committees to seek consensual solutions and approaches. I heard an echo of what the convener said in what Alex Neil said. She also said that the office should be, first and foremost, about empowering young people.

In replying on behalf of the Executive, the Minister for Education and Young People was nothing if not hugely constructive, and it is clear that the door is wide open. I know that the relationship between the committee and the Executive has been built up from the earliest days, when discussions took place with Peter Peacock, and something powerful is coming out of that.

Jackie Baillie gave a succinct description of the scope of possible investigations and I am sorry

that she is not with us. Having left the committee some time ago, I found her description extremely useful, because I have sat and listened and learned from the debate.

I compliment Alex Neil—I am trying to attract his attention—on his thoughtful contribution. He probed the areas in which the bill needs work and outlined some of the work that lies before the committee and the Parliament. Alex Neil and Jackie Baillie made extremely useful contributions.

Johann Lamont made a cogent point when she asked, “Who will be heard?” and the commissioner will face that issue. Those who shout the loudest should not always get their message across first; the commissioner must listen to the quieter voices.

Elaine Smith drew together issues around where we draw the line between devolved and reserved matters and she mentioned refugees. The question is whether the commissioner will be able to address reserved matters. There are two answers to that. First, one anticipates that the commissioner will establish a profile in the media and will be asked to comment on a variety of matters that relate to children’s rights, regardless of whether they are devolved. That has come out of today’s debate. Secondly, where a particular function of the commissioner impinges on a reserved matter, he or she will be empowered to comment.

My thoughts on the bill, rather like those of Karen Gillon, stemmed from a slight initial scepticism. Some years ago, I became involved in the Highland youth parliament. From that, I learned that the means of getting children heard and involved are still not all that they should be, which is why the report is before us today. I hope that when the commissioner is appointed, he or she will conduct an acid test on all organisations and ensure that not only local authorities and community councils but all organisations listen to and act on children’s thoughts and voices.

I must compliment Scott Barrie on taking on the jibe that will be chuckled at us that we are terribly politically correct and that this is a nanny state. He is absolutely right to take on that jibe and hit it back hard. Sadly, I fear that the gloom and doom mongers will throw that comment at us. If we are to make the bill work, we must hit that comment back at them hard.

I compliment the committee on its report, I thank the clerks and I look forward to the introduction of a successful bill.

16:35

Murdo Fraser (Mid Scotland and Fife) (Con): When my colleague Brian Monteith opened the debate for the Scottish Conservatives, he said that

we had some reservations about some of the proposals. I have listened to the tone of the debate and to some of the contributions to it, and I believe that our stance has been vindicated. We have been reassured that we came in at the right angle.

The Conservatives are somewhat sceptical about some of the proposals. In particular, we are sceptical about the idea that all children should be treated as part of a class, rather than as individuals. Children are different—they have different needs, come from different situations and have different opinions. To suggest that we can lump them all together and say that they have a commonality of interests is a flawed approach.

Karen Gillon: Could Murdo Fraser point me to the phrase in the report that says that every child is the same?

Murdo Fraser: Of course the report does not say that. However, Karen Gillon might recall that a number of speakers said that children’s interests must be represented, which implies that interests are not being represented at present. That is the point to which I sought to respond.

Children are best represented not by an arm of the state but by their parents. The commissioner’s role should not be about taking rights away from parents. We must be clear that primary responsibility for children is with their parents. That is enshrined in the UN Convention on the Rights of the Child. I quote article 5 of the convention, which is important:

“Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.”

Karen Gillon: Will the member take an intervention on that point?

Murdo Fraser: Yes, if it is brief.

Karen Gillon: Can the member point to the part of the report that states that the rights mentioned in article 5 of the convention will not apply to children in Scotland? Is it not the case that he is trying to find a position that differentiates the Conservatives from the rest of the Parliament by making a cheap political point that has nothing to do with this debate and that flies in the face of everything that is written in the report? The report is quite specific that the UN Convention on the Rights of the Child will apply in Scotland—that is what the proposal for a commissioner is based on. The extract that he just quoted is included in the rights that will apply in Scotland. Why does he suggest that the committee’s proposal contradicts the convention?

Murdo Fraser: It is rather unworthy of the committee convener to accuse anyone of seeking to score cheap political points. If she listens, she will find that I am about to explore and expand on the debate.

A slightly worrying trend is becoming apparent. Last week, during the stage 1 debate on the Criminal Justice (Scotland) Bill, the Executive—grudgingly—had to drop its proposal to take away the right of parents to discipline their children as they saw fit, due to the backlash from parents. During that debate, the Deputy Minister for Justice, who is sitting on the Labour party benches, said that the Executive would be closely monitoring public opinion on that issue and would look for an early opportunity to reintroduce it. Today, Scott Barrie, in his rather disturbing speech, made it clear that that is part of the Executive's agenda. We have an Executive that thinks that the state knows best—better than parents. I would be concerned if the appointment of a children's commissioner was another step along that road. We must defend the rights of families and of parents to bring up their children free from state interference.

Margaret Jamieson (Kilmarnock and Loudoun) (Lab): Will the member give way?

Murdo Fraser: No, thank you. I want to make some progress and I have already taken two interventions.

We heard much in the debate about the nature of society. I am sorry that Jackie Baillie has left the chamber, as she, too, talked about society. The first person to say that there is no such thing as society was John Macmurray, who happens to be Tony Blair's favourite philosopher. We have a society that is made up of individuals and families. We have a strong society by having strong families, and an agenda that weakens the family is one that will weaken society. Family breakdown is a primary cause of child poverty. If we are serious about such issues, we must champion the rights of families rather than seek to chip away at them.

However, we accept that there is a role for a children's commissioner. There are children who need protection. My colleague Jamie McGrigor referred specifically to children in care—children who are looked after not by their parents but in homes. We are all familiar with horrific tales of abuse of children in council and state-run homes over the years. Those children do not have parents to stick up for them or to defend their rights. They are precisely the children who need protection. Such protection cannot come from the state, because the state is looking after them. That is why we need an independent body or person to champion their rights. That is where the role of a children's commissioner lies.

The commissioner should have the right to investigate public bodies, as its primary role should be to help children in care, but surely the investigation of private sector bodies is a matter for the police and other existing institutions. I understand that that position applies to the children's commissioners in Wales and Northern Ireland. We do not accept that the commissioner should agitate for changes in legislation. That is the job of members of the Scottish Parliament, of the Westminster Parliament and of the European Parliament.

The children's commissioner does not represent a panacea. Johann Lamont made that point effectively in a fine speech. We support the principle of a children's commissioner, but we have reservations about the detail of what is proposed. We will reserve our position on the matter until we see the detail of the bill.

16:41

Fiona McLeod (West of Scotland) (SNP): It gives me great pleasure to close on behalf of the Scottish National Party. I intended to make a joke about being there in the very early days of the Education, Culture and Sport Committee, when we first began to speak about the issue. That led me to conception and birth, but I did not think that a joke about that was a good idea. I hope that giving birth is not catching.

Conservative members have raised several questions. We will answer those questions. I know that Cathy Peattie will answer them on behalf of the committee, but I feel that I must review some of the things that Conservative members have said.

Why do we need a commissioner for children and young people? We need a commissioner because there is no direct or focused way for young people in Scotland to have their voices heard. The views that have been expressed by Conservative members make me realise how important it is to ensure that children are able to make their voices heard in a direct way. The commissioner must have sufficient standing to make the Parliament and all its members listen to what they say on behalf of the young people of Scotland.

I am proud that in the Parliament's three short years, the Education, Culture and Sport Committee has produced recommendations on how other committees should consult young people. I am pleased that the Scottish Executive has a ministerial task force on children and a national child care strategy. However, none of that takes away from the need to have a focused person with a clearly defined role who will ensure that young people's voices are heard with authority.

Brian Monteith said that MSPs could be commissioners. He had a set-to with Scott Barrie. How many MSPs are approached directly by young people? The majority of young people do not see us as people who will listen and work for them. Many of us try to make a connection with young people but, on the whole, young people have not made such a connection with us. A children and young people's commissioner would fulfil that role, almost on our behalf.

I hope that a children and young people's commissioner would also be able to scrutinise the issues that young people have. The Conservatives have referred to children as individuals. Children are individuals, but they make up 20 per cent of our society and they bring to our attention a group of issues and problems that it is right to bring to our attention.

In 1996, the first report on the United Kingdom's implementation of the United Nations Convention on the Rights of the Child made some specific criticisms of implementation in the UK. The second report is due shortly. Ten years after the implementation of the UN Convention on the Rights of the Child in this country, we know that the rapporteur will probably make some of the same criticisms again. We will be criticised for still not having proceeded with certain issues. I hope that the children's commissioner will bring focus to whether the work of the Parliament and the Executive complies with the UN Convention on the Rights of the Child.

One issue that has not been mentioned but which I feel quite strongly about is that the existence of the children's commissioner should help to ensure that the Executive and the Parliament produce in an easily accessible format the facts, figures and statistics on what is happening to young people. I know that we are making progress on that issue, but I am sure that if we had a commissioner demanding that, the facts and figures would have to be produced. That issue came to mind when I remembered how, for the Parliament's debate on mental health that took place a good two years ago, I had found it difficult to get statistics on the mental health problems of young people and teenagers. Having a children's commissioner for Scotland could help us to achieve that.

Murdo Fraser said that the commissioner should not get involved in legislation, as that is for the Parliament and for MSPs. I am sorry but, although the Scottish Parliament has a better record on ensuring that our legislation is in some way child proofed, we do not have everything right yet. I hope that a children's commissioner would help us in that respect. The minister referred to child impact statements. When we talk about the Parliament equality proofing legislation, the thing

that comes to mind is the fact that the Equal Opportunities Committee considers every piece of legislation to see how it impacts on equal opportunities. At the moment, there is nobody anywhere to consider how legislation impacts on young people. That is another valuable role that the children's commissioner could perhaps introduce.

Jackie Baillie: It is important to recognise that requiring child impact statements for legislation is a matter not only for the children's commissioner but for the Scottish Executive. Does Fiona McLeod agree that the Executive should have that responsibility?

Fiona McLeod: Yes. As I mentioned, the Executive has a national child care strategy and a ministerial group on children. The commissioner should be a focus to ensure that the Executive is brought to heel if it falls down. The commissioner will push to ensure that the Executive does what it says it will do.

Consultation on legislation is extremely important. Given the arguments backwards and forwards during last week's debate on the Criminal Justice (Scotland) Bill, I am proud that the Education, Culture and Sport Committee, during its consideration of the Standards in Scotland's Schools etc Bill, recognised that the bill impacted on young people. We commissioned consultation with the young people. We not only went out to consult the young people but brought them into Parliament in a way that they made them feel comfortable so that they could inform us.

The report on the stage 1 consideration of the Criminal Justice (Scotland) Bill shows that, of the 59 submissions that were received, only four were from groups that represented young people. Last week's debate did not really take into account young people's views on the bill. Unfortunately, the situation was similar in the Parliament's consideration of the Housing (Scotland) Bill.

I am glad that Karen Gillon said that the question of which powers were reserved and which were devolved has been dealt with. The commissioner needs to be able to comment on reserved issues because, as we have heard, asylum and social security issues know no boundaries.

Finally, let me quickly deal with the investigation of individual cases. A few weeks ago, we met Judith Karp, who is the UK rapporteur on the UN Convention on the Rights of the Child. She told us that it was important that we should not restrict the commissioner's role in such a way that the commissioner was blocked from ever taking up individual cases. We always need to leave a safety net so that, if the appropriate body—be that private or public—has failed an individual, there is still someone to whom that individual can turn.

I am glad that the bill to establish a children's commissioner will be introduced. I am especially glad that the UN Convention on the Rights of the Child will underpin the role of the commissioner for children and young people in Scotland. Introducing such a bill is a public affirmation that the Parliament recognises that young people have a proud place in society in Scotland. We should recognise and applaud that.

The Presiding Officer (Sir David Steel): Cathy Peattie, who is deputy convener of the Education, Culture and Sport Committee, will wind up the debate.

16:49

Cathy Peattie (Falkirk East) (Lab): I thank all members who have participated in this important and generally positive debate. The proposed bill will afford the opportunity to change the lives of children in Scotland for the better. As Irene McGugan said, the commissioner will have a powerful role and will be a powerful champion for children in Scotland.

I will address many of the issues that members raised this afternoon. Johann Lamont mentioned the age of the children with whom the commissioner should deal with. None of the witnesses agreed on that issue. Some witnesses felt that the children's commissioner should deal with children up to the age of 12, while others felt that the commissioner should deal with young people up to the age of 26 or 27. The Education, Culture and Sport Committee tended towards the recommendation in the United Nations Convention on the Rights of the Child and took on board the provisions in the Children (Scotland) Act 1995 on children who are in care.

Jamie McGrigor, and the Tories in general, made great play of the role of parents. It was interesting that Brian Monteith did not raise that issue often at the Education, Culture and Sport Committee. In fact, I think that the issue was raised only once. Everyone who has been involved in addressing the issue of a children's commissioner is a parent. Indeed, some of them are new parents. They recognise that parents have a special role with regard to children. Murdo Fraser rightly referred to the United Nations Convention on the Rights of the Child and parents. It is important to say that the children's commissioner will not undermine the role of parents.

Ian Jenkins made the point that the commissioner will have moral authority. I welcome Ian's input and his commitment to advancing the post of children's commissioner.

Scott Barrie highlighted the role of safeguarders in the children's hearings system. It is important

that we are not prescriptive. We wish to appoint a children's commissioner who can examine what is happening in Scotland, listen to young people and work appropriately with the organisations that work with children throughout Scotland. It would be wrong for the Parliament to create a list of prescriptions that was difficult to follow. We must be careful.

Alex Neil should be involved in writing the job description of the children's commissioner, because I liked what he said. We want someone with imagination who is young enough to remember what it is like to be young—I include myself in that. We need the best person for the job.

Elaine Smith was concerned about whom the children's commissioner would represent. The commissioner would represent all children who are resident in Scotland. There will be no narrow definition that states, "These are the children you will work with." The important point about the children's commissioner is that all children in Scotland will be represented.

Murdo Fraser was concerned about whether the children's commissioner will have a role in the private sector. Increasingly, private and voluntary organisations play a key role in providing children's services. Surely he is not saying that if the private sector is involved in the delivery of children's services, there should be no way in which to challenge inappropriate service provision—my goodness, surely that is not what he meant.

Murdo Fraser: Does Cathy Peattie not accept that a plethora of organisations already regulates care in the private sector?

Cathy Peattie: That was my point. There is a plethora of organisations in the private sector, but Murdo Fraser is suggesting that the children's commissioner should have no role in commenting on the private sector. That is not the case throughout Europe. Irene McGugan highlighted 15 children's commissioners or ombudsmen throughout Europe who comment on the private sector. We have only to examine the media and the kinds of things that children have to look at every day to realise that the private sector plays a key role in our children's education and environment. We have a right to suggest that the children's commissioner should have a say in that.

The proposal for a bill comes from the Education, Culture and Sport Committee's inquiry into a children's commissioner. We have heard a lot about the work that has been done, but it is important to say that the strongest voices calling for the creation of a children's commissioner were those of young people. They made strong representations to the Education, Culture and

Sport Committee on the need for a children's champion.

The committee believes that the commissioner's role should be underlined by the three principles of consultation, participation and accessibility. We intend that the commissioner should have a remit to engage with children who are vulnerable or who are not normally involved in consultation exercises. We have heard about the Education, Culture and Sport Committee's work to develop young people's participation.

Another key point on involving children is that we want young people to know that the commissioner will not act alone and will listen to young people. The commissioner should be in touch with young people and young people will need to be in touch with the commissioner. That was a comment from young people who attended the seminar in the chamber on the role of the children's commissioner.

I emphasise the importance of involving children and young people. I agree with the minister that the commissioner could learn much from the expertise of voluntary organisations. Agencies from the voluntary and statutory sectors welcomed the committee's inquiry and supported the establishment of a children's commissioner. I put on record my support for and thanks to them.

I thank Save the Children, which helped us to develop a good participation process; the Scottish Parliament information centre, for all its research; our wonderful committee clerks, for their support; the non-Executive bills unit; and all committee members. Like others, I pay tribute to Jackie Baillie and Irene McGugan for their hard work, determination and, sometimes, sheer bloody-mindedness to ensure that the issue was on the agenda.

The proposed bill is an example of a positive outcome that can be achieved by cross-party co-operation. When there is a will, we can work together. In these days when children grow so fast—they are often pushed into growing up too fast—and feel that they have no voice, and when all that they hear is grown-ups and the media putting them down, it is vital that voices speak on their behalf.

The bill will establish a significant new office to support the rights of children and young people in Scotland. The children's commissioner will work to ensure that policy makers and service providers—including private statutory service providers—prioritise the rights and interests of children and young people.

The commissioner's office will be new and unique. Its coverage of all children and young people will be unique. It will provide a focus for the co-ordination and promotion of the rights of

children and young people. It will have the ability to develop an overview of issues that pertain to the rights of children and young people and its work will be informed and prioritised by children and young people.

No other agency has such a combination of breadth of remit, independence and statutory status. The commissioner will be informed by children and young people and will represent their views to the Parliament, the Executive and others. The commissioner will have a clear duty to engage actively with young people to develop networks and find imaginative ways to ensure accessibility. Ian Jenkins gave good ideas for developing those matters.

The proposal is an ideal whose time has come. As Irene McGugan said, we are not the first to create a children's commissioner. However, our proposals have innovative aspects. If we acknowledge that it would be good to progress with the bill, we will be at the cutting edge of the struggle to improve children's rights. For our children's sake, please support the proposal for the bill.

Motion without Notice

16:58

The Deputy Minister for Parliamentary Business (Euan Robson): Presiding Officer, I seek permission to move a motion without notice to bring forward decision time.

The Presiding Officer (Sir David Steel): Do members agree to accept a motion without notice to bring forward decision time by one minute?

Members *indicated agreement.*

Motion moved,

That S1M-3431 be taken at this meeting of the Parliament.—[*Euan Robson.*]

Motion agreed to.

Motion moved,

That the Parliament agrees under Rule 11.2.4 of the Standing Orders that Decision Time on Wednesday 25 September be taken at 4.59pm.—[*Euan Robson.*]

Motion agreed to.

Decision Time

16:59

The Presiding Officer (Sir David Steel): There is only one question to put to the chamber. The question is, that motion S1M-3322, in the name of Karen Gillon, on behalf of the Education, Culture and Sport Committee, on its report on the proposed commissioner for children and young people bill, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Campbell, Colin (West of Scotland) (SNP)
 Canavan, Dennis (Falkirk West)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)
 Gibson, Mr Kenneth (Glasgow) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (Edinburgh Pentlands) (Lab)
 Harper, Robin (Lothians) (Grn)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lochhead, Richard (North-East Scotland) (SNP)
 Lyon, George (Argyll and Bute) (LD)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 MacDonald, Ms Margo (Lothians) (SNP)
 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)
 McAllion, Mr John (Dundee East) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McGugan, Irene (North-East Scotland) (SNP)
 McLeish, Henry (Central Fife) (Lab)
 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)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)

Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Peattie, Cathy (Falkirk East) (Lab)
 Quinan, Mr Lloyd (West of Scotland) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Simpson, Dr Richard (Ochil) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Mrs Margaret (Edinburgh West) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Thomson, Elaine (Aberdeen North) (Lab)
 Watson, Mike (Glasgow Cathcart) (Lab)
 White, Ms Sandra (Glasgow) (SNP)
 Wilson, Allan (Cunninghame North) (Lab)

ABSTENTIONS

Aitken, Bill (Glasgow) (Con)
 Davidson, Mr David (North-East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Harding, Mr Keith (Mid Scotland and Fife) (Con)
 Johnstone, Alex (North-East Scotland) (Con)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)

The Presiding Officer: The result of the division is: For 67, Against 0, Abstentions 11.

Motion agreed to.

That the Parliament agrees to the proposal for a Committee Bill under Rule 9.15 contained in the 11th Report 2002 of the Education, Culture and Sport Committee, *Report on Proposed Commissioner for Children and Young People Bill* (SP Paper 617).

Primary Care

The Deputy Presiding Officer (Mr Murray Tosh): The final item is a members' business debate on motion S1M-3357, in the name of Mary Scanlon, on the importance of primary care. The debate will be concluded without any question being put. I would be obliged if members would clear the chamber quickly and quietly.

Motion debated,

That the Parliament recognises the importance of primary care in managing 90% of patient contact with the NHS in Scotland; appreciates the vital role GPs play in providing primary care services as part of the wider primary care team; supports the statement that "if it can be done in primary care, it should be done in primary care", and acknowledges the urgent need for reform and support to invigorate staffing levels, facilities, IT provision and morale for this to become a reality.

17:01

Mary Scanlon (Highlands and Islands) (Con):

I am delighted to have secured the debate today on primary care. This is national general practice week, which is led by the Royal College of General Practitioners with support from the British Medical Association, the NHS Alliance, the Royal College of Nursing, the Royal College of Midwives and many others. The idea of national general practice week is to promote the work that our general practitioners and their colleagues do for the general public and to celebrate the strengths of family medicine. I am delighted that Richard Simpson, who is a GP, is sitting beside our health minister for today's debate.

Primary care has now evolved into a health team in which GPs work with community and practice nurses, midwives, reception staff, managers, pharmacists, physiotherapists, occupational therapists and chiropodists to name but a few. Today I want to emphasise the role of GPs. They undergo five years of undergraduate training followed by three years in a hospital and a year in general practice. It takes nine years before they qualify as general practitioners.

Ninety per cent of contacts with the national health service begin and end in primary care. That figure must be right—it is in the health plan. GPs provide a huge range of services, which expand constantly. Those services include chronic disease management of conditions such as diabetes, asthma and heart disease, minor surgery services and intermediate care. More patients are now cared for by GPs than were previously cared for in hospital. There is no doubt that general practice and the primary health care team is the heart and the cornerstone of the NHS in Scotland. Why then are we facing such problems in the recruitment and retention of GPs?

The health plan gave a commitment to recruit an additional 1,500 nurses and 600 consultants, but no such commitment was made to increase the number of GPs. Although we may all agree to the primary care team approach, GPs have unique skills in diagnosis and treatment. Those skills have been gained through years of education and training; they cannot be delivered by anyone other than a medically qualified GP.

To prepare for the debate, I asked some individual GPs for advice. I will quote from their replies, although I do not have permission to give their names. If I am given permission to do so, I would be happy to hand them to the minister. One respondent commented on the current state of the health service, saying:

"The rubbishy reforms ... brought forward to date are at the very root of its current failure ... Creation of 'The Government Doctor' under PMS, is truly soviet in its concept and practice."

A GP from Lanarkshire responded:

"there used to be 20 applicants for each job, now you are lucky ... to get 1 or 2."

He went on to state:

"if I'm not writing ... medical letters then I'm trying to explain to a patient that there is still a 52 week wait to see an orthopod or 6 months to see a psychologist, even if they are only 5 stone or agoraphobic ... more and more consultations are generated by the consequences of long waiting lists and a patient expectation that they are being 'duped' by a government telling them how much money they have poured into the NHS."

On the subject of primary care modernisation—which has formed the basis of an excellent booklet—the chairman of a Highland local health care co-operative said:

"as yet we have not received one penny of the extra resources that the report mentions. More importantly we have not received any encouragement from either NHS Highland or the Primary Care NHS Trust to redesign services according to the report or even to plan its implementation. On the contrary senior management seem to want to prevent us from taking any initiative that in our view would improve services or streamline administration. We are in many ways disempowered."

The chairman goes on to say that the LHCC is currently receiving "the worst funding" since it was formed and that it has had to curtail services to "save money".

In 1995, the number of GPs in training was 282; last year, that number had increased by one to 283. In a recent job satisfaction survey conducted by the BMA, 78 per cent of GPs said that they had a neutral or negative attitude towards LHCCs. When asked about the value of LHCCs in improving clinical care, 82 per cent had a neutral or negative view. The most shocking figure was that 86 per cent reported that LHCCs had provided reduced quality or no change to the quality of

patient care. The same research highlighted that 48 per cent of GPs who were more than 55 years old intended to leave their posts within two years.

Why do we have such problems recognising GPs' contribution to patient care? Why are GPs constantly left out of decision making and why do they keep talking about a mass exodus from the NHS? Like so many others, I welcomed the introduction of NHS 24. Indeed, I still do—it is an excellent project. However, is the minister listening to the concerns that have been raised by GPs in Grampian? Is he aware that, although their service has experienced a 30 per cent reduction in the number of telephone consultations, there has been no reduction in the number of call-outs? Moreover, I understand that the Grampian doctors' on-call service ran at a fraction of the cost of NHS 24 in Grampian. Although I welcome the roll-out of the service to the rest of the country, I hope that the minister will listen to comments about how it can be improved in other areas. That said, I should point out that the BMA remains unconvinced that NHS 24 is an effective use of scarce NHS resources.

As a Highlands and Islands MSP, I could hardly speak about GPs without mentioning the crisis in the north of Scotland. I am sorry that my colleague Jamie Stone is not present, because he has been carrying out sterling work on the matter. There should be eight GPs in Wick, but by the end of the year there will be two and a part-time post. Further down the coast at Lybster, there will be no doctor by the end of the month. I understand from a written paper submitted to the Health and Community Care Committee last week that when the Helmsdale community raised concerns about the loss of its doctor, it was threatened with a Shipman and told that if people did not like the service, they did not have to use it. However, people who live in Helmsdale, Loth or Kildonan do not have a lot of choice.

Given that 2 million appointments are missed in Scotland every year, we can all help our GPs by ensuring that we turn up for appointments and that we cancel when we cannot make them. That might give GPs the consultation time for patients that they would like.

Although I understand that the new contract is still out for negotiation, I ask the minister to speak and listen to the GPs and primary care teams. By addressing their problems, he will show us that he values them as much as the patients do. I also ask him to reassure communities throughout Scotland that they can look forward to security of access to a family doctor in years to come.

The Deputy Presiding Officer: If members speak for only four minutes, everyone who has requested to speak should be able to do so.

17:10

Mrs Margaret Smith (Edinburgh West) (LD): I welcome the opportunity to speak in the debate in national general practice week.

All of us in the chamber will agree with the statement that

"if it can be done in primary care, it should be done in primary care"—[*Official Report*, 25 April 2002; c 11239.]

Increasingly, that is the case: 90 per cent of the care that is delivered in the health service is delivered in the local primary care facilities that we all enjoy. Although those facilities deliver 90 per cent of the care, they do not receive 90 per cent of the resources.

We should continue to shift resources from the acute services sector to the primary care sector. That is not always a palatable message to get across to people. Members should consider the amount of time and strength of feeling given to the acute services review in Glasgow over the past few weeks. Although people want to retain their hospital facilities, they also want local accessibility. More people want to be able to undergo treatment from a practice nurse or a GP rather than having to wait for months for a hospital out-patient appointment. There is an on-going shift in the delivery of care across the spectrum of the services that are delivered by primary care teams. Mary Scanlon listed many of those services.

Earlier this week, I visited the Jedburgh health centre with my colleague Euan Robson. The practice manager showed me the list of the people who use the centre's facilities. The professional staff amount to 48 members. The practice manager said that the number had doubled in four or five years, which demonstrates the fact that we are doing more at primary care level. In the Health and Community Care Committee this morning, we discussed the Mental Health (Scotland) Bill and the work of the community mental health teams. Primary care professionals are working hard.

It is essential that the Executive should continue to put the necessary funding into primary care. Over the next three years, I hope that we will seek to address many of the issues that Mary Scanlon touched on. We should have the money and resources available to do that. I note that, in the comprehensive spending review, £36 million was set aside for GP and dental facilities.

Other announcements about capital projects and information technology that were made in the review will also affect primary care. An issue that arises time and again—I am no expert on it—is the misuse of IT in primary care. We can do much better in that area.

One of the great problems facing the health service is recruitment and retention of staff. Mary

Scanlon touched on the problem of morale, but we also face a major problem concerning the demographics of our GPs. For example, 25 per cent of them are over 50—I am sure that they will not mind me saying that—yet the number of GPs in training has risen by only 6 per cent in the past five years. We should consider that in the context of a 28 per cent increase from 1997 to 1999 in the number of people having patient consultations with GPs. We are trying to get an increasing service out of dwindling resources.

I would like the Minister for Health and Community Care to answer a question that was put to us in Jedburgh. Are there any plans to extend the GP retention scheme beyond the age of 55 as a means of dealing with the recruitment and retention problem?

We can increase face-to-face contact between GPs and patients—which is what they tell us they want—by making greater use of nurses. I welcome the plans to extend prescribing, which are out to consultation.

I wonder whether the problem of missed appointments gives us an opportunity to launch a campaign to impress on people the impact of a missed GP appointment—not only for the individual, but for the wider medical practice. I hope that the minister will address that question.

17:14

Brian Adam (North-East Scotland) (SNP): No one is opposed to recognising the importance of primary care—it is a bit like motherhood and apple pie, in that everyone is in favour of it. However, significant changes have taken place in primary care in the past few years, not the least of which was the welcome abolition of the fundholding arrangements and their indirect replacement through the LHCCs. Although there are positive early signs, the LHCCs have not been in place long enough to allow a final judgment to be made. Some GPs who are involved with them undoubtedly feel considerable frustrations, which are normally about the constraints of the budget.

Uncertainties about resources restrict the development of the services that GPs and the teams around them provide directly in the community. There must be a commitment on resources. As Margaret Smith suggested, we are trying to provide services in facilities that were never intended for that purpose. We must address that. Services in the community are generally welcomed because they are more accessible to patients, but we will soon reach capacity. If we are to replace acute beds with facilities in the community, we must provide sufficient resources.

There are other uncertainties. I hope that the negotiations over GP contracts will soon be

successfully concluded. Against that background, there is the overhang of the Arbuthnott formula, which applies to general medical services. I realise that ministers have said that they will not rush into a decision on that issue, but they should take a long, hard look at it.

Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD): I agree with Brian Adam. Ministers must review the Arbuthnott formula quickly. As he knows, the north-east has 10 per cent of NHS activity, but receives only 9 per cent of the budget.

Brian Adam: I am more than happy to concur with Mr Rumbles on that matter. The funding formula could exacerbate local problems.

A large proportion of the GP work force is over 55, but there is no great expansion of medical schools. Added to that is the considerable demand for an increase in the number of consultants. When the Mental Health (Scotland) Bill—which is in its early stages—is passed, there will be more demands for psychiatrists and other related staff. Demand for medical staff is increasing, but there does not appear to be an increase in supply. As has been mentioned, the lead time for GPs is around nine years. We must make the job attractive in places where there are shortages. Where will we get the GPs? Margaret Smith's suggestion that we should try to retain staff for as long as possible is worthy, but the minister cannot avoid the problem.

I am delighted that Mary Scanlon has brought the debate to the Parliament and I am delighted to support the motion.

17:19

Rhoda Grant (Highlands and Islands) (Lab): I, too, welcome the opportunity to speak in the debate and I congratulate Mary Scanlon on securing it. The minister will be aware that in the Highlands and Islands the provision of health care services faces significant challenges. In particular, the desire to move away from single GP practices has led to concern about the future delivery of services. GPs rightly want to work in shared practices so that they can share on-call time, but that creates a concern because larger practices need larger geographical areas to get the number of patients required. That results in people facing transport problems. In remote communities, it is not always easy to get to the GP by public transport.

I pay tribute to schemes such as the community car scheme in Aviemore, which provides a service to people who do not have access to a car. The car can take a person to their GP, if that is needed, and is available if the person wants to take part in social activities. That ensures that

people are not isolated and it results in health benefits. When people become isolated in remote rural areas, they can suffer from depression and similar illnesses.

There is another example of good practice in Nairn, where I have seen the benefits of joined-up working between local GPs and social services. GPs provide medical cover for the local hospital, which improves patient service. If the GP thinks that more care is needed at a patient's home, they can bring in social services at an early stage, which keeps people out of hospital. Most people want to stay at home if they can. We need to expand such joined-up working. The GPs are involved in the local hospital and, if someone needs round-the-clock medical observation, that person can be taken into the local hospital and still be kept in the primary care sector. The high costs of acute care are therefore avoided.

The GPs and other primary care practitioners also spend much time dealing with preventive medicine and considering ways of preventing illness. Money that is spent in the primary care sector therefore leads in the long term to huge savings in the acute care sector, as people do not end up needing acute care.

Moray leisure centre is another example of how primary care can take the lead in providing preventive medicine. GPs work with the centre to devise and prescribe exercise programmes that help not only patients who need such programmes to recover from major traumas, but people who may be at risk of illness. That prevents trauma in the first place.

On dental services, the minister will be aware of the problems in recruiting and retaining dentists in the NHS in rural areas. There is a real fear that people will be put off having necessary dental treatment and that serious conditions will not be diagnosed because people cannot afford to go private. At question time last Thursday, the Deputy Minister for Health and Community Care made positive comments about the possibility of Highland NHS Board employing more salaried dentists and obtaining funding for that. I urge the minister to work closely with the trust in the Highlands to ensure that problems are tackled and people do not end up with conditions that could have been caught early and dealt with.

17:22

Mr David Davidson (North-East Scotland) (Con): I congratulate Mary Scanlon on securing the debate.

The manpower crisis in the general practice is of great concern to us. In general practice week, we should recognise not only the role of the GP, but the evolving role of primary care in the community

through the development of primary care teams. Mary Scanlon acknowledged those roles and other members have highlighted the fact that the GP is a cornerstone and key person in the team. There must be evolution towards playing a team game and we must, using professional skills, try to relieve the pressures on our overburdened GPs that often exist as a result of the public purse. Pressure must be relieved through education and we must widen the aspects of care that can be delivered in the community.

The professional skills of my profession—pharmacy—are being used more and more by Government. I congratulate the Executive on the pharmacy plan which, if it is rolled out, will be even better and will result in more health care in the community.

Many nurses are now running specialist clinics, which relieves some pressure on GPs. However, we are simply talking about relieving pressure. That is the key—there is tremendous pressure. As health knowledge develops, more demand is placed on the health service and patients are more aware of their rights and of what treatment is available. It is vital that we support existing GPs and that we can replace them when they leave. As other members have said, there is a replacement crisis, not just in respect of age, but because many GPs, as they come towards retirement, have difficulty taking on young partners. Not everybody seems to understand that GPs tend to be self-employed businessmen who deliver a professional service. Young people are not prepared to invest in that service. Many young doctors qualify, go into general practice for a while and then move on. They are not prepared to put down roots.

We recently had a problem in Banff and Buchan and I was pleased with the way in which the health board dealt with it. When one GP retired through health problems, another became so overloaded that he left to join another practice. That meant that there was no GP and the community had to cope with a series of locums. The locums did their best, but there was no continuity of care. Eventually, the health board managed to find a salaried service to go in, but that is not a long-term solution.

The minister must listen more carefully to GPs' demands that their long-term plight be recognised. A manpower crisis is on the horizon. Despite all the fine words in the world, we see no positive plan that will deliver new GPs to the service by making it attractive. I do not doubt that the minister has seen statements by Dr Ivan Wisely, who is the secretary of Grampian local medical committee. His comments have been highly publicised in the press and he is not speaking as an individual. I have met other people who are on that medical committee. I know that other members will have

met GPs in other parts of Scotland who talk about the bureaucracy, about lack of support and about lack of recognition. If GPs are overworked they will be under stress and under pressure and because of that they may worry about their ability to deliver the professional care that people in the community require.

There is obviously a problem with general practice. Brian Adam alluded to the problems of GP fundholding. Many GPs who went willingly into the local health care co-operative system now want to go back to fundholding, because they feel that they could manage their budget better and focus care on individuals who come to see them.

Brian Adam *rose*—

Mr Davidson: Sorry, I am near the end of my speech.

In conclusion, I say to the minister that he has a role to play from the centre in helping to solve the manpower crisis. He can resource, where he can, the different services that are required and the education that is required. However, to do all that, he must listen to GPs. I am sure that he will recognise, along with other members, the vital role that GPs play in our communities.

17:27

Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD): I will focus on the last part of Mary Scanlon's motion, which

"acknowledges the urgent need for reform and support to invigorate staffing levels, facilities, IT provision and morale"

in primary care.

I will focus on NHS dental provision in primary care, as I believe that that aspect of primary care is most in need of reform and support. Why is that? It is because there is a crisis in NHS dental provision throughout Scotland. The crisis is particularly acute in my area—the north-east of Scotland.

In Scotland, 51 per cent of adults and 25 per cent of children are not even registered with an NHS dentist. It is not surprising that 56 per cent of five-year-olds have signs of dental disease. Putting fluoride in the water supply is not the only way to tackle the problem; we could have a much better NHS dental service.

Richard Lochhead (North-East Scotland) (SNP): Does Mike Rumbles accept that one of the reasons why we have a problem in Grampian is the lack of dentists moving to the area to work? Does he agree that one way round that might be to ask the Scottish Executive to fund a feasibility study into the potential for having some kind of training facility in Aberdeen?

Mr Rumbles: Richard Lochhead is right. I am coming to that.

The crisis in NHS dentistry, specifically in the north-east, exists because of two problems. First, there are not enough dentists. The British Dental Association recommends that there should be one dentist for every 2,000 people. In Aberdeenshire, we have one for every 4,400 people. Secondly, the fees that dentists receive are set at a ridiculous level. Although it is in the power of the Executive to change that, we have agreed to keep the terms and conditions that have been set at UK level.

There are two solutions, to which Richard Lochhead's intervention pointed. We reduced to 120 the number of dentists that we train in Scotland. The Executive is content to keep that number. There use to be 160 places each year and we must go back to 160. We need to open—I go further than Richard Lochhead—a new dental school. I first made that suggestion in the chamber a few weeks ago and I said that the ideal place to have such a school would be Aberdeen. I remain convinced that that is the case. I am glad that Richard Lochhead supports that.

I would also like the Executive at least to consider a radical solution and to really reform—that is what the last part of Mary Scanlon's motion is about—the NHS dental service by considering breaking the link with UK levels of remuneration for our dentists.

It is a radical solution. Funding for health services is coming through in large measure, which has to be welcomed, but some of those funds could be directed where they could achieve the best results. I believe that we have to be radical; we have to think differently and produce Scottish solutions to Scottish problems. We have particular problems in relation to access to NHS dentistry throughout Scotland, but they are most acute in the north-east and particularly in Aberdeenshire.

17:30

Alex Neil (Central Scotland) (SNP): I also congratulate Mary Scanlon on securing the debate. Sometimes I think that she is in the wrong party, although she is far too left wing to join new Labour.

I want to support what Mike Rumbles said about the dental situation. Ever since the Tories changed the funding arrangements for dentists nearly 10 years ago, we have suffered a shortage of dentists. Indeed, the reason why they changed the arrangements was that, as a result of previous changes, demand for the services was going up too quickly and too many people were going to their dentists. The Tories cut—they did not cap—

the fees that are available to dentists, which has resulted in the kind of statistics that Mike Rumbles outlined in his speech. I suggest that the minister revisit the fee arrangements for dentists.

I am glad to hear of Mike Rumbles's conversion to the idea that we need to have Scottish solutions to Scottish problems, which the SNP has long argued in relation to dentists, nurses and so on. I was in the United States of America two months ago and noted that nurses in primary care and the hospital sector in some areas are being paid a lump sum of \$2,000 to sign a two-year contract and are being paid a salary of about \$80,000. That points to why we are short of people in our health service. It is a fundamental truth that, until we pay doctors, dentists, nurses and auxiliary workers—who are essential—decent wages and competitive salaries, we will never solve the problem of the shortage of people in the health service.

Mr Davidson: Does Alex Neil agree that one of the problems that we face in relation to attracting health workers to various parts of Scotland is that we are stuck with a national wage bargaining scheme that prevents health boards from competing?

Alex Neil: That is precisely the point: the UK bargaining scheme is totally inadequate for us to meet Scotland's particular requirements. I am arguing for a Scottish solution to a Scottish problem.

There are many fundamental pressures on GPs. The supply of GPs is rising at the rate of 1 per cent a year while the number of consultations that GPs deal with is rising by 14 per cent a year. The average consultation time is still only seven minutes, but the recommended consultation time is 10 minutes. We need almost a 50 per cent increase in the time that is spent with patients.

The availability of drugs causes a problem. For example, Infliximab, which can deal quickly with certain cases of rheumatoid arthritis, is not yet available in many parts of Scotland, including Ayrshire. If that drug were available, the pressure on GPs whose patients are sufferers would be substantially reduced because the patients would not have to attend the practice so often.

GPs have experienced an increase in their responsibilities, not to mention their paperwork. The Adults with Incapacity (Scotland) Act 2000, for example, has obviously put additional burdens on the primary care service.

Another problem relates to what I call the knowledge life cycle. It used to be that what doctors learned did not change for five, 10, 15 or 20 years. Now, however, it changes monthly. Continuing professional development is a major pressure in the health service and in many other sectors.

In a short debate, it is not possible to go into all the details. I hope, however, that members have highlighted key points to which the minister will be able to respond.

17:35

Pauline McNeill (Glasgow Kelvin) (Lab): I thank Mary Scanlon for bringing primary care to a members' business debate. It has, I am sure she will agree, often been regarded as the poor relation of the national health service. That should change.

Yorkhill children's hospital in my constituency does an excellent job. However, it is often associated with the work that it does in acute service, dealing with the most ill children, although I am pleased to acknowledge the investment that we have had in that. We have the biggest accident and emergency service for children in Europe and we are looking forward to the new high-dependence unit. However, I will emphasise the role of the children's hospital in the community and front-line primary care, because that is often forgotten.

I also welcome some new developments that are important for re-examining who does what in the front line. For instance, a welcome development is that Yorkhill will now undertake dental anaesthesia for under-10s in the catchment area that it serves because of some of the tragedies that have happened in that area. That is welcome, because dental caries is the most common reason for children requiring a general anaesthetic in the first place. We must move with the times.

There are striking associations between deprivation and ill health. To improve our nation's health, we must begin with deprived communities. There are no starker figures than those that we find in my constituency and in Glasgow more widely.

Smoking addiction is a problem about which many members have talked in cross-party groups and in the Parliament. Thirty seven per cent of women in Glasgow still smoke and maternal smoking is as high as 26 per cent. Those are staggering figures. Maternal smoking leads to problems among children whose mothers smoked during pregnancy. We know the stark figures on teenage pregnancy. In Glasgow, they are once again higher than the national average.

Heart disease is—thankfully—falling in the Glasgow area, but it is not falling quickly enough. I could go on about Glasgow's problems, but I believe that primary care is our best chance of turning them around and that tackling such problems among children is our best chance to change the nation's health.

I mentioned Yorkhill children's hospital because I know that the work that it does in getting out to the community is vital. Many of the children that Yorkhill staff see on the front line simply do not turn up to ordinary GP appointments. I would like that area to be considered for further investment—it is needed. Primary care is the strategy that will bring our community services closer together. The debate needs to be revitalised.

Sam Galbraith—the minister who set up LHCCs—envisaged that in Scotland LHCCs would be different from those in England because they would create a different dynamism; people would work together and shape their own arrangements. I would like the minister to address that. I fully support the idea behind LHCCs, but the policy needs to be revitalised.

I know that there are bad news stories, but there are also good news stories. One of the good news stories in Glasgow about which I heard recently is the development of back pain clinics—another big issue for the Health and Community Care Committee. The primary care team has had massive investment in clinics so that specialist nurses in the front line will deal with people who suffer from back pain. They can take cases that might not need to be seen by a consultant, thus ensuring that those who need to see the consultant are first in line.

The debate is vital, not only because of some of the issues about which we have talked, such as the need to examine needs in the north of Scotland and salaried dentists. It is important because we must get out into the communities if we want seriously to tackle deprivation.

I say to Alex Neil that most of the GPs to whom I speak are more concerned about the support that they need and the conditions in which they want to work than they are about arguing for higher pay. That is an admirable attitude and I have heard it from GPs in my area. If we can fix some of that, we will go a long way toward tackling the nation's ill health.

17:39

Dorothy-Grace Elder (Glasgow) (Ind): I warmly congratulate Mary Scanlon not only on her good research and interest in the subject, but on her utterly dedicated work on the Health and Community Care Committee right from the start of the Parliament. There is a kind joke about Mary in the Parliament, and I ask her to forgive me for this: "Mary, the caring Tory—a contradiction in terms". But we forgive her.

One of the many devastating statistics that Mary Scanlon gave us leapt right across the chamber and hit my notebook: only 283 GPs are currently in training, which is an increase of just one over the

past year. That is a complete volte-face compared with what we knew just 10 years ago, when people could not wait to go to Scotland, especially the Highlands. Youngish GPs used to come up from all over the country then, wanting to work and raise their families here. They even came from abroad. That is not the case now, however. That is a dire warning for us all.

The stress of the job has increased enormously for all kinds of reasons, many of which members have mentioned. Part of the stress comes from the old problem of the paper mountain, which is now being added to by the e-mail mountain—e-mail was supposed to remove the paper mountain, but it never has. Every recent Government has come to power promising solemnly to alleviate that paper and administrative mountain; every Government so far has failed to do so. Either the paperwork should be curbed, or more proper, well-paid clerical help should be provided for GP practices and hospital consultants, who have told me that they often have to wait between a week and a fortnight to have a letter written, owing to the pressure on existing clerical staff.

I hardly need remind members that GPs have become so stressed that they have one of the highest suicide rates of any profession. How can we end or ease the strain? I am delighted that Pauline McNeill has stolen some of the pain campaign's thunder. It is great that all MSPs support the pain campaign. It would be possible to ease the strain in surgeries. It could be asked who the regulars are, and why, in the main, people go and see a doctor. They do not go if they can help it—they hang off for as long as they can. People see a doctor when they are in pain. One survey estimated that the real problem for 70 per cent of regulars in GP practices is pain. Their condition may be incurable, but pain is the actual problem. They will keep coming back to the GPs, who feel awful about the fact that they do not have much time to speak to the patients.

If we had specialist pain clinics throughout Scotland—Glasgow is the only place where people are trying hard to create something new in this regard—imagine the pain that we could unload from GPs, never mind from the patients. The GP could refer people regularly to the pain clinic, which would have the time to spend on them. GPs do not necessarily want just to dish out the usual prescriptions. It needs to be established with GPs who the regulars are and why they are in the surgery.

More nurse involvement is of course important. Every example of nurse-led initiatives or teams that I have come across has been highly successful, especially when the service in question has been in a practice.

I ask members to consider the options that I have discussed. In particular, we should

remember the Highlands, where there are no proper pain services. The Health and Community Care Committee has just received a shocking report, which states that only 47 NHS workers are involved in coping with the tidal wave of pain in Scotland, which affects 550,000 people in the wider community.

17:44

The Minister for Health and Community Care (Malcolm Chisholm): I congratulate Mary Scanlon on securing the debate. It is right that the Parliament recognises "the vital role" that GPs and primary care teams play

"in managing 90% of patient contact with the NHS in Scotland".

As I said in the debate on primary care on 25 April:

"I have a passionate commitment to primary care, which is at the heart of my vision for the future of health care in Scotland.

Our test for new and existing NHS services will be this:

"If it can be done in primary care, it should be done in primary care." —[*Official Report*, 25 April 2002; c 11239.]

Mary Scanlon referred to the GP contract and the negotiations that are under way. I emphasise the importance of the GP contract, which reinforces the idea of the primary care team as a whole. The contract gives renewed focus to quality and outcomes, and recognises that special arrangements are needed for remote and rural areas. A working group, led by Scots, is currently considering the issues in remote and rural areas. I am confident that its proposals, on top of our recruitment and retention measures, the work of the remote and rural areas resource initiative and our new work force planning arrangements, will lead to progress being made on that important matter.

Richard Lochhead: Will the minister give way?

Malcolm Chisholm: Not at the moment—I will give way if I have time at the end of my speech.

Mary Scanlon referred to the number of GPs, in the context of different roles in primary care teams. We need more GPs. During the first two years following the establishment of the Parliament, there was a 2.5 per cent increase in the number of GPs, but I accept that more is needed. It will be delivered on the back of the Temple report.

Mary Scanlon asked me to speak to GPs. I assure her that I do so regularly. The week after next, I will once again meet the Scottish General Practitioners Committee. The health department engages in dialogue with the SGPC on ways in which we can more effectively retain GPs. The GP

retainer scheme is included in those discussions. That relates to Margaret Smith's question.

I assure David Davidson that we are discussing a raft of measures to reduce bureaucracy.

Mary Scanlon: Will the minister give way?

Malcolm Chisholm: In a moment.

Last week I spoke to the conference of the Association of Local Health Care Co-operatives. I assure members such as Pauline McNeill who expressed views about LHCCs that LHCCs will be revitalised. They already play a major role and are improving the quality of care in many ways, some of which I will describe in a moment.

The motion refers to the need for support. In the interests of brevity, I will not list all the primary care funding initiatives that have been taken. However, I must refer in passing to the significant funding of £48 million over three years that has been provided for 100 community-based health premises. I have been pleased to open several of those, including Blantyre health centre in the summer and Rutherglen primary care centre last week. We have also invested £18.5 million in the development of personal medical services. I do not recognise the description of such developments as "soviet". It certainly does not apply to the Edinburgh homeless practice, which I visited in August.

We are investing £30 million in expanding the capacity of LHCCs. We have invested £17.5 million in modernising IT infrastructure in GP practices and community nursing. There is more to come on that front. There will be a major drive to cut the traditional bureaucratic paper chase between primary and secondary care. Related developments are taking place in telemedicine and teleradiology, which I was pleased to see in various rural and remote areas during the summer.

As investment is stepped up, the drive to reform will be intensified.

Mary Scanlon: Will the minister give a commitment—a commitment that he did not give in the health plan—to provide money for more GPs?

I welcome the announcements that have been made about primary care. However, people in the Highlands have told me:

"As far as the additional funding for primary care is concerned: no money has of yet been handed down to practice levels or even LHCC's."

The minister may be allocating money, but how can he be sure that it reaches LHCCs and primary care providers?

Malcolm Chisholm: Mary Scanlon makes a good point when she refers to health funding as a whole. As I said in the debate on primary care, I

am determined that resources should reach the front line.

Primary care has a central role in driving change, and in transforming the NHS and patients' experience of it. Through the LHCCs, local primary care teams are leading the way in providing services that are designed around the needs of individuals and communities. They are providing not just more and different health care services—often provided by nurse practitioners and pharmacists, as David Davidson reminded us—but services to improve and protect health, and to narrow the health gap. We are providing £3.6 million from the health improvement fund, so that every LHCC in Scotland can have a public health practitioner to spearhead and co-ordinate local health improvement initiatives.

However, the development of primary care cannot be considered in isolation. There has to be more integration—vertically with specialist services and horizontally with services provided through local government and the voluntary sector.

Mr Rumbles: Will the minister give way?

Malcolm Chisholm: I will give way if I have time, but I must get through this next bit.

Integration and decentralisation are at the heart of our reform programme. Professionals from different sectors must come together at the front line to drive forward change in partnership with patients and the wider public. There have been important public-involvement initiatives in primary care, spearheaded by our designed-to-involve initiative. We can already see the benefits of that approach through redesigned projects and the managed clinical network approach's addressing our major clinical priorities of coronary heart disease and stroke, cancer and mental health.

Implementing our approach requires crossing professional and organisational boundaries and involving different settings, including acute services, local community hospitals and home-based services. A good example of that is the managed clinical network in Dumfries and Galloway, which provides care pathways for all health professionals and identifies what is required at each stage of a patient's care. The coronary heart disease network has been driven by primary care. The project manager is a GP and all the LHCCs in the area have been enthusiastic supporters. The lessons from our working across primary and secondary care have been fed into our CHD/stroke strategy, which will be launched and debated in the Parliament next week. We are determined that best practice will become common practice and that mechanisms are established for sharing developments on the widest possible basis.

I am sure that members will think it remiss of me not to discuss access. If the Presiding Officer reminds me how long I have left, I will know what to do.

The Deputy Presiding Officer: We are over time, but given that the minister is clearly responding to members' questions, I am quite relaxed about him running on a little bit longer.

Mr Rumbles: The minister has not yet responded to the issue that I raised and which concerns me most. There are simply not enough dentists to tackle dental problems throughout Scotland, particularly in the north-east. Will he reconsider moving away from the ceiling of 120 training places in order to train more dentists in Scotland in the future? The solution to the problem must be long term.

Malcolm Chisholm: The comments about dentistry were covered when I referred to our specific initiatives and Mike Rumbles knows about the specific initiative that Mary Mulligan announced on 25 April. As part of work force planning, we will consider the issue to which Mike Rumbles referred.

Everybody is rightly concerned about waiting, not just for in-patient treatment, but for out-patient treatment. Changes in primary care are vital to our making progress on out-patient waiting, because we will not make the radical progress that we are looking for unless the systems to which I referred are redesigned. The third part of the waiting journey is the initial stage of waiting to see a primary health-care worker. We have set a target of 48 hours for access to the right professional at the right time and in the right place. Last week I received action plans to ensure that patients in every part of Scotland have access to the appropriate member of the primary care team within 48 hours. That is an important development.

Margaret Smith mentioned patients who do not appear. We have a group that is considering that aspect of missed appointments. Recommendations will be coming to me quickly, because that is an important issue both in primary care and in relation to what are in many cases unacceptable waiting times for out-patient appointments. It is appropriate that I end with waiting, because I acknowledge the concerns that the public have about that, but I hope that the public and members will acknowledge the many other developments that are taking place in the health service. Today I have referred to infrastructure, the quality of care and staffing. I hope that we will think about those alongside the waiting time problems that I acknowledge freely and on which I am determined to make progress.

Meeting closed at 17:54.

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