

# **MEETING OF THE PARLIAMENT**

Wednesday 24 September 2003  
(*Afternoon*)

Session 2

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## Scottish Parliament

Wednesday 24 September 2003

(Afternoon)

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

### Time for Reflection

**The Presiding Officer (Mr George Reid):** Feasgar math. Is e àm cnuasachaidh a' chiad nì sa chlàr-ghnothaich a tha againn an-diugh. Is e Donnchadh Macleòid an neach-stiùiridh a tha againn an-diugh. Tha e na mhinistear san Eaglais Shaoir ann am Peairt.

Good afternoon. The first item of business today is time for reflection. Our time for reflection leader is the Rev Duncan Macleod, who is minister of the Free Church in Perth. English translations of the text are available in the gallery and members may of course use their headphones.

**An t-Urr Donnchadh Macleòid (An Eaglais Shaor, Peairt):** Dhòmhsa, mar Leòdhasach, tha mo chànan agus mo chreideamh am measg nan nithean as cudthromaiche a bhuineas dham dhualchas. Tha e mar sin a' toirt fìor thoileachas dhomh na smuaintean seo a thoirt thugaibhse an-diugh anns a' Ghàidhlig—cànan a bhuineas dhuinn mar rìoghachd agus air nach bu choir dhuinn dìmeas a dhèanamh.

Ach is e mo chreideamh ann an Dia tre losa Criosd an nì as luachmhoire a tha na mo bheatha. Is fhada bho chaidh seo a theagasg dhomh à "Leabhar Aithghearr nan Ceist".

"Cìod e Dia?"

Tha Dia na spiorad, neo-chriochnach, bith-bhuan agus neo-chaochlaidheach na bhith, na ghliocas, na chumhachd, na naomhachd, na cheartas, na mhaithreas agus na fhirinn."

Thuir Criosd,

"An Tì a chunnaic mise, chunnaic e an t-Athair."

Ged nach eil na tha fìor mu bhith Dhè fìor mur deidhinne a chruthaich E, is cinnteach gun iarraim uile a bhith a' foillseachadh na feartan eile a bha air an ainmeachadh an siud nar beatha.

Gliocas—cò againn nach eil a' cur feum air an seo? Buill Pàrlamaid a cheart cho cinnteach ris a h-uile duine eile! Is e tùs a' ghliocais eagal Dhè agus tha an gliocas a tha on àrd air tùs glan, an dèidh sin sìochail, ciùin agus so-chomhairleachadh; làn de thròcair agus de dheagh thoradh, gun lethbhreac agus gun cheilg.

Cumhachd—tha sinn uile dèidheil air cumhachd

agus ùghdarras a bhith againn nar beatha. Tha chan eil ann an cumhachd ach rud nach bi aig duine againn ro fhada. Tha sin fìor mu bhuill Pàrlamaid cuideachd. Mar dhaoine, tha sinn uile cho lag agus ar beatha cho mì-chinnteach. Faodaidh ar freastal atharrachadh uair sam bith. Dèanamaid cinnteach, ma-thà, gun cleachd sinn cumhachd sam bith a bhios air a bhuileachadh oirnn a-chum maith dhaoine eile an àite a-chum ar glòir fhìn.

Naomhachd—tha am facal sin a' ciallachadh gu bheil Dia air leth bho gach neach eile, agus cuideachd nach gabhar aon chasaid de sheòrsa sam bith a dhearbhadh na aghaidh. Cha diathan sibhse, ach tha sibh air ur cur air leth airson a bhith a' dèanamh seirbheis dur co-chreutairean. Feuchaibh gum bi sibh gur giùlain fhèin a-chum 's nach gabh aon chasaid a bhith air a cur às ur leth.

Ceartas—is cinnteach gu bheil a h-uile duine againn ag iarraidh seo. Tha saoghal cho làn de mhì-cheartas agus tha e mar dhleastanas oirnn uile, agus gu cinnteach oirbhe a tha ann an ùghdarras, oidhirp a dhèanamh a-chum agus gum bi ceartas agus fireantachd gar comharrachadh mar rìoghachd. Cha ghabh ceartas dhaoine a bhith air a chomas ri ceartas Dhè, agus nuair a tha sinn mothachail air mì-cheartas anns an t-saoghal is math briathran Abraham a chuimhneachadh:

"Nach dèan Breitheamh na talmhainn uile ceartas?"

Maitheas—nuair a bha losa san t-saoghal bha e a' dol mu chuairt a' dèanamh nithean matha. Na sgithicheamaid de mhath a dhèanamh nas motha, agus gum biodh sin fìor mu gach nì anns am bi sibhse ri sàs mar bhuill Pàrlamaid na h-Albainn.

Firinn—a-rithist tha seo cho cudthromach. A dh'aindeoin 's mar a bhios sinn a' faicinn nithean tre shùilean eadar-dhealaichte, agus is docha a' leigeil cudthrom air deifir nithean a rèir agus an seòrsa feallsanachd a tha againn, is cinnteach nach eil nì cho iomchaidh na gum biodh sinn uile a' labhairt na firinn aig a h-uile àm gun a bhith a' toirt àite don bhreug.

Anns na dòighean sin gum biodh sibhse a' glòrachadh Dhè agus nur seirbheisich do mhuintir na h-Albainn air fad nur n-obair, agus gun robh Dia gur beannachadh aig a h-uile àm agus anns gach nì.

*Following is the simultaneous interpretation:*

For me as a Lewisman my language and my faith are among the most important aspects of my heritage. It therefore gives me real pleasure to convey these thoughts to you today in Gaelic—a language that belongs to us as a nation and that we should not despise.

However, my faith in God through Jesus Christ is the most precious thing in my life. I learned this question and answer long ago from the Shorter Catechism.

“What is God?”

God is a Spirit, infinite, eternal and unchangeable in his being, wisdom, power, holiness, justice, goodness and truth.”

Christ said that

“he that has seen me has seen the Father”.

Although what is true of God’s being is not true of us, his creatures, surely all of us would want to show forth in our lives the other virtues mentioned in the catechism.

Wisdom—which of us does not need this? Members of Parliament need it just as surely as everyone else. The fear of the Lord is the beginning of wisdom and the wisdom that is from above is first pure, then peace-loving, considerate, submissive, full of mercy and good fruit, impartial and sincere.

Power—we all desire to have power and authority in our lives. However, power is something that nobody will have for very long. That is true of members of Parliament as well. As human beings we are so weak and our lives are so uncertain. Our Providence can change at any time. Let us ensure then that we use whatever power we are invested with for the benefit of others rather than for our own glory.

Holiness—this word means that God is separate from all others and that no charge of any kind can be proved against Him. You are not gods, but you are set apart in order to serve your fellow human beings. Make sure you conduct yourselves in a way that is above reproach.

Justice—surely we all want that. The world is full of injustice and it is our responsibility—and certainly your responsibility—in positions of authority to make the effort to ensure that justice and righteousness characterise us as a nation. Human justice cannot be compared with God’s justice and when we are aware of injustice in the world it is good to remember the words of Abraham:

“Shall not the Judge of all the earth do right?”

Goodness—when Jesus was in the world he went about doing good. Let us not grow tired in well-doing either and may that be true of all that you as members of the Scottish Parliament are involved in.

Truth—again that is so important. Despite how we see things from different perspectives and perhaps emphasise different issues according to our own ideology, there is surely nothing more appropriate than that we all always speak the truth without giving any place to falsehood.

In those ways, may you glorify God and be servants of all the Scottish people in your work at all times and in all things.

## Charity Law

**The Presiding Officer (Mr George Reid):** The next item of business is a statement by Margaret Curran on charity law. The minister will take questions at the end of her statement; therefore there should be no interventions.

14:35

**The Minister for Communities (Ms Margaret Curran):** I welcome this opportunity to make a further statement to the Parliament about charity law reform. I am sure that members will be familiar with the background to the subject. The issues are complex and there is interplay with the United Kingdom Government's agenda for charity reform and its tax responsibilities. However, I am confident that I am able today to set out a basis for the robust and effective regulation of Scottish charities that will give Scotland the regulatory framework that it deserves.

In my previous statement in May, I emphasised the Executive's commitment to introducing a more effective regulatory regime for charities in Scotland, including, in general terms, an intention to introduce legislation to underpin the new arrangements. Subsequently, I set out my strategy for proceeding with those proposals in response to a parliamentary question on 27 June. The three key elements of the strategy were: first, to move to establish the office of the Scottish charity regulator as an agency of the Executive in Dundee before the end of this year; secondly, to consult further with the sector about the scope of any supporting legislation; and thirdly, to report back to the Parliament once I had taken the opportunity to discuss options with members of the Cabinet.

There have been repeated calls for charity reform from the public, the charity sector and indeed from the Parliament, particularly over the past few months. I felt that it was important, therefore, to set out my proposals to members as soon as possible, so that we can commence implementation of my strategy without further delay. I am pleased to be able to take forward that strategy and to announce today that the Government will bring forward new primary legislation on charity regulation in Scotland. A draft bill will be prepared for consultation in spring next year.

The bill will set out a Scottish definition of charity, based on the principle of public benefit, which will be compatible with the definition that the UK Government is adopting. The office of the Scottish charity regulator will be turned from an Executive agency into an independent statutory organisation with an enhanced range of powers. The bill will empower the regulator to maintain a

publicly accessible statutory register of all charities that operate in Scotland, which will form the cornerstone of the office's regulatory functions. The bill will also set out improvements in the regulation of fundraising—including improved transparency in the information about the use of funds that charities raise—and set out a number of tidying-up measures that will be designed to assist charities' operations.

I will consider each of those aspects of the bill in turn. The new definition of charitable purpose will be based on the concept of public benefit and on 12 identified categories of charitable activity. Under that arrangement, it will be for the regulator to set out its criteria for public benefit, drawing on case law to allow for flexibility and evolution. That is consistent with the approach that the UK Government is taking in preparing its legislation. Such consistency should allow charities that operate both north and south of the border to do so on a level playing field. The approach will also allow the Inland Revenue to dispense tax relief to charities on a common basis, irrespective of their geographical location. Bodies that already have charitable status will remain as charities until the regulator is able to develop new guidance on the nature of public benefit. I do not expect the new definition to lead to significant change for existing charities.

The bill will transform the office of the Scottish charity regulator, which will become an independent statutory organisation—probably a non-departmental public body—with an enhanced range of powers. The statutory regulator, which should take over from the interim body that is being established this year, will be able to determine whether a body has the status of a charity in Scotland and will actively monitor and regulate such bodies. It will have the power to provide advice and information on its regulatory role and to signpost good practice guidance elsewhere. The regulator will have the power to intervene in the management of charities and to suspend trustees where necessary—for example, if its investigations identify mismanagement or misconduct. It will also be able to take direct action in the courts.

The bill will require the regulator to maintain a public register of all charities operating in Scotland. That will underpin its proactive monitoring regime. The register will provide publicly available information on charities and allow members of the public to check on charities with which they are involved or which they wish to support. Charities will be legally required to submit to the regulator regular information returns such as annual reports and accounts. In order to avoid unnecessary regulatory burdens, the regulator will develop a proportionate regime for charities based on their size and, where a body is regulated by

more than one regulatory authority, the charity regulator will be required to liaise with other regulators in order to avoid duplication.

The recent case involving Breast Cancer Research (Scotland) has highlighted the issue of controls over charity fundraisers. In considering the way forward, it is important to appreciate the distinction between professional fundraising bodies—which, as commercial businesses, are subject to control by the UK Government—and the charities themselves, which are subject to the charity regulator. I shall be discussing with the Home Office its plans for improved regulation on the business side in order to ensure that its proposals reflect Scottish needs. However, I agree with its conclusion that self-regulation by the fundraising industry is the first route to be tried. So far as the charities themselves are concerned, I plan to improve the transparency of charities' fundraising by requiring more clarity about that in their accounts. That will allow the public to see how much money a charity raises from external fundraisers and how much that costs.

A number of other legislative changes will be included in the bill to assist in the operation of charities and to improve their regulation. Those changes, which were announced by Jim Wallace last December, include allowing charities to have access to a new legal form—the charitable incorporated organisation—and extending trustee investment powers.

In today's statement, I have naturally looked to the future in setting out our legislative plans. However, I also wish to emphasise our continued commitment to setting up what will now be an interim regulator before the end of the year. I am pleased to announce that Jane Ryder, currently chief executive of the Scottish Museums Council, will be seconded to the Executive from December this year until May 2005 to take on the role of chief executive of the interim regulator. Jane will play a key role in setting up the regulator, in developing its initial range of functions and in paving the way for the transition to a statutory body once the charities bill has received royal assent.

I am pleased to be able to set out my plans, which will result in Scotland getting, at last, comprehensive, consistent and effective charity regulation. Recent events have undermined public confidence in charities and fundraising. The plan of action that I have set out today will rectify that. A statutory regulator, working proactively with increased powers will lead to a simpler and more transparent system of regulation, which I believe will secure the widespread support and confidence of both the public and the charities sector.

**The Presiding Officer:** The minister will now take questions on her statement. I intend to allow around 20 minutes for that, after which we will move on to the next item of business.

**Michael Matheson (Central Scotland) (SNP):** I begin by thanking the minister for providing me with an advance copy of her statement. Her statement is very much welcomed by members of my party, as for some time we have been calling for reform of charity law, and her proposals sit well with our policy.

I seek clarification on several points in the minister's statement. First, she stated that there will be a new definition of charitable purpose, which will be consistent with the approach taken by the UK Government. I note the reasons why the minister has stated that. She went on to say that she does not expect a new definition to lead to any significant changes in respect of existing charities. Can she give us some idea of the sort of changes that she expects may be required?

Secondly, I note that the bill will transform the office of the Scottish charity regulator into an independent statutory organisation. If a charity is operating in two regulated areas, which regulator will have lead responsibility for actively monitoring and regulating that charity?

Finally, if there is a public register for all charities operating in Scotland, will charities that are registered in England also be required to register here in Scotland, and will they also be required to submit regular information to the Scottish regulator?

**Ms Curran:** I thank Michael Matheson for his introductory remarks. I am pleased that we are making such progress and recognise his support for that progress. I agree that we should discuss the details of the implementation of the policy as we progress the bill.

One of the most important things that we are trying to ensure is that we do not create undue burdens for charities in Scotland. It is appropriate that we minimise undue regulation and allow charities to conduct their business; close discussion with the Home Office is therefore vital.

In my statement in May, I said that I would proceed with discussions with the sector about how we should take forward many of the matters to which Michael Matheson referred. I have had close discussions with the sector and have agreed a way forward, which I outlined.

Charities that will be registered and will operate in England and Scotland will, in the first instance, be required to register in both countries. As we develop relationships with the Home Office, we will consider how to minimise the need for two regulatory regimes, but such registration will have to happen in the first instance. One of the first tasks of, and the reason for, the interim regulator is to consider implementation and to ensure that we create a system that operates for the benefit of those charities. It might be appropriate that our

regulatory regime is more significant in the first instance, but that will depend on the tax regime that is developed down south. Details will become apparent as the office of the Scottish charity regulator undertakes its duties.

**Mary Scanlon (Highlands and Islands) (Con):** I, too, thank the minister for the advance copy of her statement.

It will be noted that no Conservative member signed up in support of Jackie Baillie's proposed member's bill—the charities (Scotland) bill—because we recognise the need for a fully comprehensive review of charity law. However, the Conservatives support any actions and proposals to encourage the giving of money for charitable purposes in the faith that that money will be used for its intended purpose.

At the outset of the consultation on charity law, I ask the minister to strike a balance between managing fraud and overburdening organisations with regulations, particularly smaller charities, but also in relation to the setting up of new charities.

**Ms Curran:** Again, I welcome the spirit of what the member says. We are at great pains to emphasise that we want to create a proportionate regime and that we should strike a balance. We should be aware of the debate in Scotland over the past six months about the need for effective regulation and the need to strike confidence in the public. We need a balance, so that charities operate effectively and do not spend their lives filling in forms—which they do not want to do. The fact that the interim regulator—Jane Ryder—will get to work soon will help us to ensure that we strike a balance, not only in principle but in the detail. As I said, we should liaise properly with the Home Office to ensure not only that we strike that balance, but that we do not miss other burdens that might be placed on charities through the Home Office or wherever.

**Jackie Baillie (Dumbarton) (Lab):** Members will recognise that I have more than a passing interest in charity law. In that context, I warmly welcome the minister's statement. It is clear that the Executive has made substantial strides in its policy thinking; an independent regulator will be set up by statute, with a wide range of powers and real teeth to enable public confidence in charitable giving to be restored.

It will come as no surprise to the minister that I want to press her on the timetable. I note the welcome promise to bring forward the draft bill in the spring of next year and I have three questions.

When does the minister envisage the bill being introduced to the chamber? It is important to legislate as quickly as possible to avoid a repeat of the problems that were experienced with Breast Cancer Research (Scotland). Secondly,

consistency with the UK Government is important, but does the minister acknowledge that we can nevertheless proceed should there be insufficient time at Westminster? Finally, given the minister's inclusive style of working, will she include representatives from the McFadden commission and the voluntary sector directly in the drafting of the bill?

**Ms Curran:** Members will notice that Jackie Baillie and I share not only a commitment to charity regulation, but the same dress sense.

I made it clear in the statement that we will introduce a draft bill in the spring. I cannot be more precise than that and, with due respect, I do not think that I have to be. My commitment to the sector and to the Parliament—which I think is broadly recognised—is that we will move swiftly with the legislation that is required, and we are honouring that commitment. It would be inappropriate for me to give specific timetables, as we need to ensure that we get the bill right and I cannot pre-empt the Executive's commitment to other matters.

Of course, I wish to be inclusive in progressing the bill. I put on record my thanks to the members of the McFadden commission, the Scottish Council for Voluntary Organisations and all the other members of the charity and voluntary sectors who have worked hard with me over the summer to come to terms with the complexities of charity law. I will continue that discussion with them.

**Donald Gorrie (Central Scotland) (LD):** I congratulate the minister. This is one of the best things that the Executive has done for some time. If the minister manages to push the bill through successfully, she will become the patron saint of the voluntary sector. I am sure that the real St Margaret was a great promoter of the Scottish voluntary sector in her day.

Defunct or moribund charities need to be dealt with. My favourite such charity was set up to support teetotal tailoresses in Leith—but it could not find any. There is money lying about in the lawyers' offices of a great many such charities in Edinburgh and that money should be unlocked. Will the minister ensure that the bill empowers the regulator to force sleeping charities out into the open? Will she also ensure that it simplifies the process of changing the purposes of a charity? At the moment, that is legalistic and cumbersome.

**Ms Curran:** I thank Donald Gorrie for his question, which was different, as ever. I could never lay claim to being teetotal—I defer to Mr Sheridan on that—and I do not know much about teetotal tailoresses.

Nonetheless, Donald Gorrie makes a serious point, and there are associated issues concerning the relationship of a variety of smaller charities

with the regulator. We do not want to make life unduly difficult for charities, many of which are only small. On the other hand, we need to know what the picture is in Scotland and the different challenges that charities face, to be as supportive of them as possible.

I hope that the regulator—especially in the interim phase—will devise means of finding the information that we need to create mechanisms that are appropriate to the charities' different needs, within a regulatory framework that builds confidence. We can consider the detail of what Donald Gorrie is suggesting and ensure not only that we act in the interests of the charities, but that the information on them is publicly available so that there is proper accountability.

**Patrick Harvie (Glasgow) (Green):** I, too, welcome the statement. It is encouraging that space has been found in the legislative timetable for this measure—especially in the light of recent comments that the Parliament's legislative timetable was going to be clogged up if too many members' bills were introduced.

My question is about the new definition of charitable purpose and, specifically, about the statement that the minister does not expect the new definition to lead to a significant change in respect of existing charities. If the status of private, fee-paying schools was subject to change under the new definition, would the minister consider that significant?

**Ms Curran:** That is an interesting way in which to phrase the question. The principle remains the same, in that the test is public benefit. We expect the regulator to define the criteria that will allow that principle to be tested. For example, in the case of independent schools, the regulator will give us guidance on what criteria to use in testing independent schools. Some would argue that such schools can fulfil the test through other means. However, we will wait for guidance from the regulator on that.

**Tommy Sheridan (Glasgow) (SSP):** I am sure that the minister will accept my sentiment in the way that it is meant, when I say that her speech was the best one that she has made to the Parliament since I have been here. The speech was very welcome indeed. Can I press her on two issues? I hope that she does not mind my doing that. First, will she ensure that, at the drafting stage rather than the consultation stage after the bill has been drafted, voluntary sector organisations are widely included and consulted? Secondly, will she ensure that there is an absolute commitment to recognising that some charities have professional staff who can liaise and work with the law better than other charities, which are just as worth while, but which do not have such professional staff? Will the minister give an

assurance that the proposed law will work as effectively for the smaller charities as it will for the bigger ones?

**Ms Curran:** This is a most unusual day. I have been called a patron saint and I am agreeing with Tommy Sheridan. That really is news. I thank Mr Sheridan for his comments. I strongly agree with the sentiment that he expressed. We want the legislation to work in the interests of the smaller charities as well as the bigger ones. In terms of my relationship with the whole voluntary sector, I appreciate the role of the smaller voluntary organisations, which perhaps do not grab the headlines in the same way as the bigger players do—with no disrespect to them.

We will look carefully at the bill's detail to ensure that it works in the interests of smaller charities as well. The way to do that is to involve them in discussing the impact of our proposals, because we might not even see the situation in terms of their experiences. I can easily give a commitment that we will involve the full range of voluntary sector and charity sector interests when we draft the bill as well as when we consult on it.

**Mr Rob Gibson (Highlands and Islands) (SNP):** I welcome the minister's statement that an enhanced range of powers will be brought together in the new agency. However, I am concerned about the need to change from an executive agency to another quango. Perhaps the minister can give me one or two reasons for doing that.

**Ms Curran:** That is a serious point, which we have considered. When we announced—in May, I think—the creation of an executive agency called the office of the Scottish charity regulator—OSCR—Mr Gibson will know that there was criticism about that, not least from the Scottish National Party's side of the chamber. There were concerns that the OSCR was not distant enough from the Government. Some felt that the agency needed to be more independent, particularly as charities can be critical of the Government or seek to be independent of the Government's view.

I considered that argument. I would not naturally be inclined to set up organisations for the sake of it. I am not one who would want to give away control unless I had to. Can I qualify that statement? I had better be careful. There is a valid argument for having space from the Government. There is a need for more independence and for statutory regulation. That is why we incline more towards the NDPB model. We are considering different models for the independent statutory regulator—such as that in England, for example—because I do not think that we should automatically assume that the only model is that of a non-departmental public body. However, I should be honest and say that the new body is

likely to be an NDPB. The sector itself strenuously argued for that model. The issue is also one of public confidence. That is why I was persuaded that we should have an NDPB model.

**Scott Barrie (Dunfermline West) (Lab):** Like most members, I warmly welcome the minister's statement. I note that the minister proposes to appoint Jane Ryder as the interim regulator by the end of the year. What will Miss Ryder's key role be between then and 2005, when the new statutory regulator is due to be appointed?

**Ms Curran:** I am grateful that Jane Ryder is taking up that position. Again, there was a question over whether we needed to go ahead with OSCR 1, as it will now be. However, I believe that it will be worth while to do so because it will allow us to move swiftly on the work that needs to be done to ensure that the charities bill bites as soon as it is implemented. For example, we will develop a publicly accessible database and register. We will continue to investigate charities that need support. OSCR 1 will allow us to develop guidance for the operation of charities and it will pave the way for OSCR 2. From my responses to other questions, Mr Barrie will know that I believe that we need to think in detail about what the second phase will be. The work that is being done by the interim regulator will give us a base to do that and allow detailed consideration of the issues.

**Mr Brian Monteith (Mid Scotland and Fife) (Con):** I welcome the minister's statement. The minister will be aware that, in politics, perception can be the reality. In that regard, to someone with red/green colour blindness, the minister and Jackie Baillie might appear today to be Hibs supporters. Further, I wonder whether the minister's statement might not be just as illusory.

We know that the advancement of education will be one of the charitable purposes and, in answer to an earlier question, the minister said that the regulator will tease out in guidance how it is possible to demonstrate public benefit. To what extent, then, will the Scottish Parliament be able to have a say in the guidance that is prepared by the regulator, so that we can be assured that schools in places such as Mid Scotland and Fife, that have charitable status and that provide services to disabled children, for example, will retain that charitable status?

**Ms Curran:** When I have taken other legislation through the Parliament, we have consulted the relevant committees on the guidance. I cannot imagine that it would be inappropriate to ensure that there is parliamentary involvement in the development of guidance in this regard.

I appreciate the background to Mr Monteith's question. I know why he asks it, but I do not think

that our politics towards that sector are the fundamental issue; the public benefit test is the fundamental issue. I want to ensure that that test is applied consistently to all sectors across Scotland. To any sector that might feel threatened, I can say that there will be no undue interpretation of the proposals. All sectors or categories will have to prove that public benefit arises from their work. If they can do that, they should feel assured that the proposals will have no undue consequences.

**Des McNulty (Clydebank and Milngavie) (Lab):** I congratulate the minister on her canonisation as St Margaret, even if it is only by the Liberal Democrats.

The minister will be aware of the contribution that not-for-profit organisations, some of which are sizeable businesses, can make across the set of responsibilities that she and other ministers have. Can the minister assure me that, in developing charity regulation, she will pay particular attention to such delivery organisations, focusing not only on the burden that charity law places on them, but on the audit burden that they face generally? Will she ensure that their interests are taken care of by the interim regulator and her department when legislation is introduced?

**Ms Curran:** I can give the member that assurance. Scotland has a complex range of organisations that are involved in charitable purposes in the broader sense. That is partly why we have to be careful with legislation of this nature. We have to take our time with it and ensure that we get it right because of the impact that it could have on those various organisations.

I assure the member that we will consider the not-for-profit sector in detail. Obviously, we want to support and encourage that sector by legislative and other means. We would not wish to place undue burdens on such organisations or create unintended consequences for them as a result of our proposals. Our consultation and involvement strategy will ensure that the details of the subject that Mr McNulty raises are understood and that those organisations have an opportunity to spell out the impact that the legislation will have on them so that the legislation addresses their needs as well.

**Johann Lamont (Glasgow Pollok) (Lab):** The minister will appreciate that, in the first session of the Parliament, the Social Justice Committee pressed hard for early action to deliver effective legislation in this area. It is therefore good to see the matter being progressed.

I note what the minister has said about involving the charitable and voluntary sectors. Following Des McNulty's point, how does the minister intend to involve the co-operative sector and the co-operative movement, which have a distinctive

voice and position on public benefit and on how they are placed in relation to that?

**Ms Curran:** All the key stakeholders and interests will be involved in the consultation process to ensure not only that we enable the public to have confidence in the measures, which we need to do, given recent events, but that our proposals are seen as being proactive and helpful to the various sectors in Scotland.

I give Johann Lamont, the convener of the Communities Committee, a strong commitment to ensure that the interests of the co-operative sector and the co-operative movement will be considered in detail and that our officials will speak to them soon.

## Better Behaviour, Better Learning

**The Presiding Officer (Mr George Reid):** The next item of business is a debate on motion S2M-379, in the name of Peter Peacock, on better behaviour, better learning, and two amendments to the motion.

15:05

**The Minister for Education and Young People (Peter Peacock):** I welcome the opportunity to open today's debate on a subject that is important for Scotland's schools and wider communities. I am particularly pleased to see Fiona Hyslop today, because she told me yesterday that she had a competing claim on her time—a debate about discipline in Inverness this afternoon. She did not say whether it was about discipline in the Scottish National Party or in Scottish schools. Perhaps it was about both. I am glad that she has given this debate priority, because the issue is important for us all.

Better behaviour in Scotland's schools is of great importance. Improving discipline and behaviour in our schools is a key issue, not only for pupils, but for parents and teachers. I am pleased to say that I have made it one of my top priorities since becoming Minister for Education and Young People. Of course, I was not the first to identify the area as one in which we need to make great improvement. A major programme of work was already under way through "Better Behaviour—Better Learning: Report of the Discipline Task Group". As I am sure members are aware, the discipline task group was chaired by the First Minister when he was Minister for Education, Europe and External Affairs.

The report set out a comprehensive programme, including 36 recommendations, which ranged through issues such as promoting a better curriculum, with more flexibility, to engage young people better in learning; school policies on inclusion; a staged intervention process in relation to improved behaviour; sharing best practice among schools; better guidance to teachers; involving pupils more effectively in designing school policies; involving parents more effectively than we do at present; and many more matters. Action has been taken on all those fronts. That has been backed by resources from the Executive and has bought real improvements in schools.

**Mrs Margaret Ewing (Moray) (SNP):** The minister talks about giving support to teachers. Does that mean that teacher training in college and at in-service days will pay more attention to disabilities that often lead to discipline problems?

**Peter Peacock:** Absolutely. I confirm that it will mean that in both areas. Earlier this week, I

announced a review of initial teacher education. I emphasise that one of the dimensions of tackling the problem—it is only one; there are many others—is support for better classroom management. A separate dimension is better initial teacher education on young people with additional support needs. I emphasise that exactly the same things require to be addressed in continuing professional development.

I hope that there will be cross-party support for the need for action on a broad range of issues in relation to school behaviour and school discipline. It is no use simply to highlight problems. We need to concentrate actions to support better behaviour and better discipline. I will listen to any good ideas that members can contribute on those matters.

Undoubtedly in Scotland we need to build on the superb practice that is available in our schools, share that good practice much more effectively and let every school develop approaches that are best suited to their circumstances. The issue is complex and dynamic. I realise that we need to keep working on it. During the summer, professionals, teachers, pupils and parents raised it with me as a concern. For them, it is a significant issue, and I am certainly not going to hide from it.

I am particularly concerned that teachers at times have felt unsupported. I make it clear that we take the issue very seriously and take supporting teachers in their task in that regard very seriously indeed. We will do everything we can to back up their efforts to promote positive behaviour in schools. If that means that we have to change areas of current policy and practice, that is exactly what we will do to achieve our objectives. That is why I have made it clear that any target on exclusion should not override local professional judgments. I make it absolutely clear again that we will not second-guess head teachers' daily judgments on individual cases in schools.

**Robert Brown (Glasgow) (LD):** Does the minister feel that exclusion targets, if they still exist following the statement that he has just made, should be abolished altogether in favour of a greater emphasis on monitoring and input from Her Majesty's Inspectorate of Education as a more rounded way of dealing with the issues?

**Peter Peacock:** I agree with Robert Brown's latter point—that we must deal with those issues in a more holistic way. HMIE and its reporting have a role to play. On 27 June, in response to a question from Kenneth Macintosh, I made it clear that although we remain absolutely committed to bringing about a trend of reduction in the number of exclusions from school, for all sorts of reasons, such a reduction must be

“based on the application of the best available

management practices, not on a specific target”.—[*Official Report, Written Answers*, 27 June 2003; p 245-46.]

The specific target is no longer relevant to the pursuit of our objectives.

Among other things, I am asking officials to rephrase the guidance on handling exclusions, to emphasise the right of the majority of pupils who are hard-working and well behaved to enjoy a positive learning environment. That circular is currently out for consultation with professionals and I hope to issue it very soon.

**Ms Rosemary Byrne (South of Scotland) (SSP):** Is the minister aware that often the recommendations of joint action teams and joint support teams are overturned because of a lack of alternative facilities for the very small number of young people who are disruptive and who need support and help outwith school to reintegrate them?

**Peter Peacock:** As Rosemary Byrne knows from her professional background, a great deal is being done to support young people who display particularly challenging forms of behaviour. We can do that in a range of ways, which includes providing support in schools. I have seen good practice in schools and I hope that that will continue and will be extended. We need to support those young people, to help them to confront their difficult and sometimes offending behaviour, and to try to keep them in the education system, because the alternatives are much worse for society as a whole.

Although there are important issues to address, we must be clear about what the issues are. I do not want to anticipate Lord James Douglas-Hamilton's speech, but he is prone to painting the entire school sector as an active and constantly violent battleground—completely unsafe and out of control. He is wrong every time he does that. He lets down the majority of pupils, who are positively motivated and well behaved, and he lets down our teachers and head teachers, who work hard every day of their professional lives to promote positive behaviour and who are successful in doing so.

Lord James Douglas-Hamilton often cites what seems to be his favourite statistic: that a teacher is assaulted every 15 minutes. That is part of his attempt to paint a picture of Scottish schools as reminiscent of Beirut in the 1980s. The same statistic that Lord James has cited in the past and which, I am sure, he will use again today allows me to say that every 15 minutes more than 50,000 teachers are not assaulted and more than 740,000 pupils are not engaged in violent activity.

**Murdo Fraser (Mid Scotland and Fife) (Con):** I am sure that the Conservatives do not characterise every school as a battlefield. Is the minister not concerned that the number of violent

assaults has increased sevenfold under this Administration?

**Peter Peacock:** I am coming to that point; I am not hiding from the problems. However, playing with statistics in the way in which I have just done and in which Lord James Douglas-Hamilton has done recently is a very dangerous game in this context. Rather than constructing glib soundbites, we need to use the evidence of what is actually happening to inform policies in our schools.

Our schools are not mired in constant high levels of violence, but they face major challenges in changing the behaviour of some of our young people. Some of that behaviour is clearly disruptive and violent. Regrettably, bullying and intimidation of fellow pupils remain an issue. As we all know and have seen all too often in the recent past, bullying can literally destroy lives. School bullying ought to be as unacceptable to society as drunk driving is. Rightly, tackling bullying in our schools is a high priority and is part of the process of tackling wider behavioural problems in Scottish schools.

Teachers report changing behaviours. Pupils and parents are much less tolerant of education being disrupted by sliding behavioural standards that gnaw away at and threaten success in our schools. To paint our schools as places of gross and constant violence is as wrong as to suggest that there are no issues to confront—clearly, there are.

We should welcome the fact that the Executive is encouraging the reporting of incidents in our schools of the sort to which I have referred. There was a time when teachers who reported incidents thought they would be criticised for doing so. They felt that that was a sign of their weakness in the classroom and that somehow such incidents would always reflect on them and their abilities. We are encouraging the recording of incidents on a no-blame, no-stigma basis for teachers. To pick up the specific point that was made by Murdo Fraser, that means that the number of incidents reported has risen, and will probably rise further as we encourage the reporting of incidents so that we can analyse problems more effectively.

We use such statistics to understand better the nature of the problems we face. We should discourage any idea that antisocial behaviour should be tolerated as part of a teacher's daily work or a pupil's daily experience. However, we should not leap from that to making simplistic assumptions about levels of violence and assault and implying that, in this context, reported assault is always physical assault. I will not sweep the matter under the carpet, and that is why we are collecting and publishing statistics on those types of incidents. The Tories never did that when they had the opportunity to do so when they were in power.

There are many examples of good practice in creating positive school communities. Challenging the perception that the school was a battleground was an essential first step in Blairgowrie High School's approach to resolving recent difficulties with bullying and discipline. I have seen how schools tackle practical issues with imagination and enthusiasm. On my visit to Craigton Primary School, I saw sound leadership, a commitment from staff to develop clear expectations of pupils, and systems for rewarding good behaviour and involving pupils in the development of school policies and the school's ethos. I also saw such good practice when I visited Bruntsfield Primary School earlier this week and heard about it when I met the pupil council at Culloden Academy just a few weeks ago. Those positive actions typify the approaches that are being taken throughout Scotland every day of every week.

We must not only back our school leaders but give them the flexibility to respond to situations as they arise. We are doing that not least through the creative use of dedicated resources provided to better behaviour, better learning projects, which will get £10 million a year. However, I want to do more. That is why we are promoting master classes for head teachers and other school staff, which allow them to hear and learn from their peers about new approaches at work.

Teachers emphasise that a major concern is not only violence, but the corrosive effect of lower-level indiscipline. The Scottish Secondary Teachers Association recently published a survey of its members that revealed low-level incidents of loutish behaviour, indiscipline in the form of failure to do homework, disrespect to teachers and other pupils and challenging behaviour in the classroom. It is in their approach to exactly those issues that head teachers and their staff are being increasingly imaginative and creative. They are not only confronting questions of indiscipline and bad behaviour, but doing so in ways that keep young people in the school system, for the reasons that I set out earlier to Rosemary Byrne.

Much excellent work is being funded by the Executive in all those fields of endeavour through our alternatives to exclusion programme. A range of funding streams is helping schools to create a safe and positive learning environment and to tackle problems when they arise. That funding includes £11 million for the alternatives to exclusion programme, £10 million for better behaviour, better learning projects and £20 million for integrated community schools. I could go on at some length, but as the Presiding Officer is looking at me in a menacing way, I will try to move to a conclusion.

**Ms Byrne** *rose*—

**Peter Peacock:** I cannot take any further interventions because I am running out of time.

I particularly want to make the point that my officials are exploring new approaches and taking our agenda into schools. For example, we are considering approaches to restorative justice, which can be brought to the school setting in a worthwhile way, just as it has been brought to the wider community. We need to do more for those who have been affected by violence and bad behaviour in schools, making it clear to them that the impact of indiscipline on them has been acknowledged and acted on. I want progress on that in the near future.

Antisocial behaviour in our schools, towards pupils or teachers, is simply unacceptable. Parents, pupils, policy makers and teachers need to work together on the problem. It is a societal problem that we need to address. I hope that we will have a constructive debate today. As I said, if members have positive things to say, I will be listening.

I move,

That the Parliament supports the need to continue a long-term comprehensive programme of action to promote better behaviour for better learning in our schools.

15:19

**Fiona Hyslop (Lothians) (SNP):** I, too, welcome the debate, as it addresses a key issue in education. I note, as the minister did, that the SNP conference in Inverness is currently debating indiscipline in schools.

Standards in education have been a matter of concern for many years. Much of the debate in recent years has been about the importance of the three Rs in the achievement of core standards. If we do not approach behaviour and discipline problems in schools, we deny children the right to develop to their full potential. I suggest that we need new criteria in Scottish schools: the three Ps. If we are to make progress, pupils need a peaceful, positive and productive environment in which to be educated.

Indiscipline is the factor most often cited as a problem for teachers in their work. Teachers are meant to be educators, yet many complain that they spend too much of their time policing the classroom and dealing with crowd control rather than nurturing young minds. The reported 76 per cent increase in incidents of violence against staff since 1999 is staggering. However, we should also note that general and persistent bad behaviour can be as stressful as, if not more stressful than isolated serious incidents of indiscipline.

There are no quick fixes. The causes of the problems are complex, and the solutions multiple, so the Executive's motion states the obvious. The question for this Parliament is whether Government interventions and strategies are

helping or hindering the process. I welcome the work of the discipline task force and the moves to drive that work forward. However, even after six years of a Labour Government, and four in tandem with the Liberal Democrats, the answers are seen as policy developments with no action and no changes in the classroom.

For many teachers, discipline changes have yet to hit the classroom. I use the word "hit" advisedly, as corporal punishment was banned the year after I left school. I went to Ayr Academy, the same school as Alex Neil went to. I might add that he went many, many years before I did. The school's motto is "Respice prospice," which means, "Look backwards, look forwards." Looking back, I remind Parliament what the Government has said.

"Violence and threatening behaviour has no place in a school."

That was said by Helen Liddell on 10 February 1999.

"Violence and threatening behaviour against teachers has no place in our classrooms."

That was said by Sam Galbraith on 16 February 2000.

"Violence and threatening behaviour against teachers has no place in Scotland's schools."

That was said by Jack McConnell on 24 January 2001.

"There can be no excuse for violence and threatening behaviour against staff in Scotland's schools."

That was said by Nicol Stephen on 23 January 2002. Then, this year we had:

"Violence and threatening behaviour is unacceptable in a modern society and will not be tolerated in our schools."

We need to break out of that groundhog-day repetition every time the school violence statistics come out at the end of January—we have got the message. However, for the best part of five years, head teachers have been hamstrung by misplaced targets—as referred to by Robert Brown—on the need to reduce exclusions by one third. That is a failed policy not simply because the target has not been reached but because of the serious concern that, in practice, the policy has compounded rather than relieved discipline problems.

The General Teaching Council's publication of 13 September—which was only last week—has a comment piece by a teacher on indiscipline. It says:

"there is no doubt that the Executive's social-inclusion policy has played a very large part in creating levels of indiscipline and stress previously undreamt of in our worst nightmares."

It goes on to say:

"we find ourselves now working in a state of almost permanent crisis."

The teacher then makes a very important point, which relates to my amendment:

“Unless drastic changes are introduced soon, we very much fear that the authorities will find increasing difficulty in recruiting and retaining staff”.

**Dr Sylvia Jackson (Stirling) (Lab):** The member says that nothing has really happened in schools, but substantial amounts of money were put in following the work of the discipline task group. Does the member agree that the Scottish schools ethos network has been very useful? A total of 2,000 schools are now involved in that, promoting a better ethos in schools.

**Fiona Hyslop:** The member makes two important points. I welcome the money in the better behaviour, better learning fund, but the problem is that the funding is short term. We must recognise, as the Executive does, the need for long-term funding.

I absolutely agree with what the member says about recognising the school ethos. Leadership in schools comes from head teachers. That is why it was important that the Executive did a U-turn and ensured that head teachers would be empowered to deal with discipline issues in their schools.

Looking forwards, we must recognise that we have to build that peaceful, positive and productive environment. Many of the things that the Executive is doing are laudable. However, I want to address the Government’s social inclusion agenda, which will be key to how we cope with future problems.

Mainstreaming is now embedded in the Standards in Scotland’s Schools etc Act 2000. Mainstreaming is endorsed, but I am not convinced that it is being embraced by the Government. Exhortations, guidelines and legislation for mainstreaming could fall badly if not resourced properly.

We have increasing problems with pupils with social, emotional and behavioural needs in our schools. Many such pupils are increasingly being mainstreamed. I fear that, unless there are resources to support their behavioural problems, such pupils will have an increasing effect on mainstream pupils. If we do not take seriously those support needs, we will leave teachers with little in their armoury to ensure that all pupils in their care have a peaceful, positive and productive environment. If that happens, I fear that there will be a backlash from parents. I support mainstreaming absolutely, but we should not be misty-eyed about what a nice thing it is to have. Mainstreaming involves hard choices and it involves many teachers in managing difficult situations.

**Rhona Brankin (Midlothian) (Lab):** The member said that she read that a teacher had written that the present extent of inclusion in

schools was leading to behavioural problems, but I do not understand that. How can the member square that with the fact that there are similar numbers of pupils in special schools now as there were years ago? Given that that is the case, how can inclusion be leading to worse behaviour in schools?

**Fiona Hyslop:** The member will acknowledge that I was giving a direct quotation from an article. There is increasing identification of pupils’ social, emotional and behavioural problems; endemic poverty is putting growing pressure on young people in schools.

I am conscious of time, so I will focus on my amendment. We know that 40 per cent of teachers are about to retire, that we desperately need more recruitment and that the welcome reduction in class sizes will lead to a need for more teachers. New teachers are less experienced at dealing with discipline issues, so we must ensure that they are supported. We have a problem with retirement. The Government must consider strategies to deal with what is about to happen—the retirement of 40 per cent of teachers in a decade. That will take place at the same time as new teachers will have to deal with mainstreaming. We must address that problem strategically.

I also point out that we had better not massage the figures. I am concerned about reports that indicate possible changes in how we define severe incidences of indiscipline. I agree with the minister—it is better that such instances are reported, even if that means that the number of reported instances rises. However, it is more important that we deal with them.

Does Government hinder or help? If we want to allow head teachers to have more powers in their schools, they will need to have space for exclusion zones, for example. One problem with the new public-private partnership contracts is that they often include a restriction on the amount of space that is available, not just for addressing discipline issues, but for providing support for learning. That needs to be tackled.

At long last, head teachers are having more powers restored to them. The school ethos is also imperative. However, unless the Government examines the other issues that I have mentioned—mainstreaming, PPP, teacher retirement, and teacher recruitment and training—it will fail our young people.

**The Deputy Presiding Officer (Murray Tosh):** It is time to close.

**Fiona Hyslop:** We want a peaceful, positive and productive environment, but I ask the Executive to consider the wider sphere. We do not come up with the individual, practical, day-to-day solutions—our job is to be strategic.

I move amendment S2M-379.2, to insert at end:

“and notes the importance that teacher recruitment will have for this process.”

15:28

**Lord James Douglas-Hamilton (Lothians) (Con):** I welcome the opportunity to debate the importance of behaviour in schools and the effects of poor behaviour on learning. When the minister took up his new office, he put it on record that discipline was one of his top priorities. Although we welcome that assurance, we consider that the key to improving discipline is to give greater freedom to head teachers and schools to deal with problems that relate to indiscipline.

The announcement that there will be a review of teacher training in relation to indiscipline and disruption is a much-needed development but, as well as teachers, parents must play a vital role in tackling the subject.

Although I acknowledge that the minister has changed the emphasis of his policy in relation to the target to reduce exclusions, I have to say that the target did contribute to the reduction of exclusions by head teachers, which failed to arrest the trend in increasing levels of violence and indiscipline. It is not surprising that teacher absence through stress continued to be a matter of serious concern.

I will respond to the minister in the spirit of good humour with which he approached the subject. Of course he is right—there are examples and models of good practice in Scotland. Half the members of the Education Committee saw such an example this morning at Drummond Community High School. Its excellent document “Promoting Lifelong Learning and Mutual Respect” contains a page on guidelines and expectations, which is particularly significant, because eight of the expectations could just as well apply to MSPs before they enter the chamber. They are:

“1 All ... should arrive on time.

2 Be prepared by bringing required ... equipment and homework so deadlines can be met.

3 Co-operate ... by listening and following instructions.

4 Do your best at all times by working quietly and safely.

5 Treat others and their work with respect at all times.

6 Everyone is allowed access to drinking water.

7 Mobile phones should be turned off and put away.

8 Always be positive to others.”

I welcome the positive approach that the minister has taken to the subject.

**Rhona Brankin:** I am interested to hear the member raise the rule about switching off mobile phones given that his mobile phone went off when

we were visiting Drummond Community High School.

**Lord James Douglas-Hamilton:** That is a cautionary tale and I take it to heart.

I would be grateful if the minister would consider the six proposals that I am about to set out.

First, the Executive should give more freedom to schools. That would enable every head teacher to draw up their own code of conduct and give them the power to enforce it.

Secondly, we would give more power to head teachers to allow a zero-tolerance policy to be adopted for those who break the rules, if the headmaster and school were certain that that should be a priority. Such a policy would enable head teachers to exclude persistent offenders from the classroom.

Thirdly, we would protect grant in aid for schools that offer vital education for children who have social, emotional and behavioural difficulties, such as the Balikinrain residential schools in Glasgow. Although we acknowledge that funding for such schools is expensive, it is justified on merit for those concerned.

Fourthly, we are in favour of on-site units where disruptive pupils can receive education that meets their needs until they can be absorbed back into the main stream of the school without disadvantage to himself or herself or the rest of the class. I acknowledge that that could involve considerable expenditure, but it is justified on merit.

Fifthly, parents have an important role in tackling indiscipline. Where problems arise, teachers and parents should discuss them calmly and objectively. We are glad that the Executive is involving parents with a view to ensuring that homework is done and that there is good behaviour in schools.

Sixthly, we would like to increase flexibility in the secondary school system so as to offer all secondary 3 and secondary 4 pupils a chance to access further education. If it is established that some youngsters in that age group become disillusioned with the education system, offering a wider range of courses, particularly vocational courses, could help to find a solution. Glasgow City Council's vocational programme is a good example of how issues of *in loco parentis*, travel arrangements and funding can be dealt with.

Discipline in schools is important and should command the highest priority. Effective solutions should be put in place to ensure that the disruptive behaviour of the few does not damage the education of the many. That is the principle.

I acknowledge the validity of what the minister said about there being a great many to whom the issues surrounding indiscipline do not apply. Nonetheless, where it exists, indiscipline is a real problem. We want clear and unequivocal support to implement discipline, accompanied by high teaching standards, good teacher morale and pupil attainment.

I move amendment S2M-379.1, to leave out from "supports" to end and insert:

"believes that headteachers and schools should have greater freedom to deal with bullying and disruptive pupils to maintain good order in schools."

15:34

**Robert Brown (Glasgow) (LD):** I was conscious of two slightly different trends in the opening speeches. Despite Fiona Hyslop's initial protestations, she seemed to blame the Scottish Executive for everything that is happening in relation to discipline in schools. From what she said, I believe that she was talking not just about strategic matters, but about the detail. Lord James Douglas-Hamilton seems to be strong on the idea of local schools and their head teachers having more powers. I do not recognise his description of what happens in local schools. Schools already have considerable local powers. If I am picking up the signals correctly when I visit schools, schools are looking for more guidance, standard setting and spreading of good practice, particularly in relation to special needs. I say that just as an introductory note, rather than as a general point.

It is important to put discipline in schools in a wider context; it should not be looked at only in the school context. Behavioural problems result from individual behaviour, disablement or learning difficulty problems; inadequate, drug-using or abusive parents; stresses and the challenge of puberty; and short-term issues, such as family bereavement. Bullying can be a factor, as can boredom. Indeed, it might be said that a lack of personal discipline and organisation are the natural order of things, to some degree, with young people generally, as part of the process of growing up, testing limits, and developing personality, and of rites of passage.

**Mrs Ewing:** I agree that the problems that Robert Brown highlights exist, but they have always existed and, as a former teacher, I know that they did not necessarily lead to discipline problems. We have to address the fact that many teachers find that discipline has broken down so far that they do not wish to continue in the profession, despite the fact that they care deeply about the welfare of children. The involvement of parents and society as a whole must be addressed.

**Robert Brown:** Margaret Ewing's point is well taken. I was going to put it in context. Most disciplinary issues are low level, but the difficulty is the persistent and demoralising effect of those low-level problems. It is likely that such problems are increasing. It is difficult to be clear about the statistics, because there are reporting and definitional issues, as has been mentioned. However, a rise in reported incidents from 1,898 in 1998-99 to 5,412 in 2001-02 is a bit beyond mere statistical error and is in line with the impressions that many of us get and the anecdotes that we hear when we go round schools and other institutions.

It is fair to add that only 237 of the incidents in 2001-02 were serious enough to be reported to the police. There may be a question about the cut-off point and there may be definitional issues but, as the minister suggested, serious incidents are clearly not the norm across the board, although each case is a major problem.

The Executive survey in January 2003 found that 37 per cent of all the incidents were in primary schools, 30 per cent were in secondary schools, 32 per cent were in the special sector and 2 per cent were in pre-school centres. I suspect that some problems in secondary schools translate into higher truancy figures, because people who are more mature can leave the schools. The fact that a third of the incidents took place in special schools or special units makes it clear that discipline problems are not primarily just issues of deterrence or punishment. They are, at least in part—and this echoes Margaret Ewing's point—to do with support and structures to help young people with problems of various sorts, some of which in the past were not recognised to the extent that they might have been.

For whatever reasons they arise, behavioural and indiscipline problems in schools are barriers to learning, but they are diminished by a positive school structure, ethos and strategy. Part of such a structure is a mechanism to relieve pressure by the exclusion of the child, temporary or otherwise. I welcome the minister's confirmation that targets can sometimes have side effects that are not in line with the original objective. I say as an aside that I am increasingly sceptical about the value of a good bit of our monitoring and target-setting machinery, which can sometimes give rise to such side effects. The central targets must be kept in mind.

As Fiona Hyslop mentioned, there is a major training challenge, which is dominated by tight time constraints. Working with children with special needs or children who pose a disciplinary problem is challenging and, like people in other challenging occupations, teachers need the support of high-quality and relevant training and of

demanding good-practice standards. It is no good if teachers tell us, as they have done on Education Committee visits, that they cannot go for training because they have no time. Does the minister accept that the provision of proper, adequate, relevant and acceptable training, and the time to go for training, is an issue? Will he give me some assurance that, in special-needs areas in particular, teacher training—not just when teachers come into the profession, but as part of continuing development—will be strengthened and that adequate time will be found for it, despite curriculum pressures? That is an important issue.

The problem is multifaceted. I welcome the broad emphasis of the Executive's strategy, but I believe that there is a considerable way to go on the ground to ensure that the good intentions at the centre can be carried through most effectively in partnership with local authorities and education institutions.

15:40

**Ms Rosemary Byrne (South of Scotland) (SSP):** I welcome the discipline task group's report and the opportunity to debate such an important issue.

There is a need to go much further than other members have suggested. A small minority of young people are disruptive and have a huge impact on the learning and teaching of others in our schools. As has been said, there is low-level indiscipline, which must be dealt with as well. The majority of young people want to learn and they want to focus. They are in school to learn and are supported by their parents. However, there are some young people out there who are struggling and whose parents are struggling. But, the assistance that they require is not available.

I asked Peter Peacock about joint support teams and joint action teams. I can give many examples in which those teams—which include educational psychologists, guidance teachers, pupil-support teachers and social workers working with parents and young people—have had their recommendations about young people ignored, despite the fact that they are professional bodies, because there are no resources to implement what they recommend. There should be a complete review of the system and a full discussion about what teeth such organisations have and what can be done to support schools and the small minority of young people who require help.

Other issues cause problems in our schools and need to be addressed. Many young people in our schools have mental health problems and, unfortunately, are on antidepressants. Some young people are school refusers, either because

they have been bullied and are afraid to come to school or because there are issues at home that they cannot deal with. The shortage of people working in child and mental health is huge. There are waiting lists. Parents cannot get the help that they require and have to wait for ages. When they are referred, they have to go on to a priority list. Many young people are not getting the services that they need.

There are problems with getting help from social services. Many parents want to support their child but are having difficulty doing so. We all know that there is a shortage of social workers—it has been mentioned in the chamber many times in the months that I have been here. We need a special recruitment scheme for social workers. Something imaginative is needed to bring people into the service. Those who work in young people's support teams to support staff in schools provide an excellent service, but they are being called back into the social services department to do generic social work so that other social workers can do the legal work that has to be done. The situation is disastrous and it must be fixed.

We cannot keep on being punitive with disruptive young people and their parents. We must provide positive help to encourage parents to support their child. I know many parents who want to support their child, but the services and agencies are not there for them. The system has to be joined up. We must have the people on the ground to give that kind of support.

**Mrs Ewing:** I very much agree with what has been said, particularly as I was an administrator in social work. However, in addition to the matters that Rosemary Byrne mentioned, we must remember the children who are young carers, who are not identified and who do not have parental support. There must be some mechanism by which we can help them.

**Ms Byrne:** I agree that such a mechanism should exist. There are some good organisations out there, but not all the work is joined up, which is part of the problem.

Class sizes have not been mentioned. We can talk in the chamber all we like, and I welcome the moves that have been made in English and maths in S1 and S2, but we must make a definite commitment to review class sizes across the board and to look towards a 21<sup>st</sup> century education system. Young people from backgrounds of deprivation, of drug addiction—which has been mentioned—of alcohol abuse or of domestic violence need to be in settings where they can be educated and mentored at the same time.

**Johann Lamont (Glasgow Pollok) (Lab):** Will the member give way?

**Ms Byrne:** I do not have much time.

**The Deputy Presiding Officer:** The member is in her last minute.

**Ms Byrne:** We should have a national strategy for mentoring. Buddying systems with senior pupils work well and are excellent, but we must also consider good role models and find adults in the community and in schools who can mentor young people who have no one at home to talk to them and no means of putting across their problems.

I am sorry that I had only a short time for my speech. It is a pity that my amendment was not selected, as I have much more to say. I know that I have gone over the time for my speech, so I will just say that I cannot support the motion or the amendments. I hope that we can debate the subject again in future.

15:47

**Dr Sylvia Jackson (Stirling) (Lab):** I have an interest in the debate as a former teacher and teacher trainer and as a member of the Educational Institute of Scotland. When we say that better discipline means better learning, it is important to reaffirm what better learning means. To me, it means that we give every child the best start in life that we can. Children will have different achievements, but we should hope that they realise their potential. Discipline affects achievement, so it is important. Without discipline, the teaching and learning environment will suffer.

The minister mentioned the discipline task group, which reported in 2001. Fiona Hyslop gives the Scottish Executive no credit at all, but the task group considered many important aspects, one of which was the emphasis on positive behaviour, rather than negative matters and exclusion. As I have said, the number of schools that have joined the Scottish schools ethos network has greatly increased. The indicators that form part of that approach are to be found not only in the reporting by Her Majesty's Inspectorate of Education, but in school development planning. That is important, as it means that the approach is interwoven into a school's structure.

Another important factor is teacher training and training needs at the pre-service level, the probationary level and the continuing professional development level. I welcome the recent news from the minister about the second stage of the initial teacher education review, but he did not mention that that will widen access to teaching to people who might be thinking about changing or starting a job but whose circumstances might prevent them from going to university for their course. Distance learning will be helpful to them, so the review is to be welcomed.

It is widely accepted that the teacher training

curriculum must be altered. Courses have changed gradually to cover more discipline issues and to include more information about social inclusion and special educational needs. That must continue, because we need to make teachers more aware of the inter-agency work that must be done with parents, social services and others to tackle discipline problems. I think that Rosemary Byrne was beginning to make that point. We must ensure that our teachers are properly informed about all those matters, particularly the operation of community schools.

My next substantive point follows on from Fiona Hyslop's comments about social inclusion issues. There is no doubt that she noted the views of a group of teachers that are detailed at the back of the GTC report. Three resolutions that were passed at the most recent EIS conference highlighted social inclusion as a particular issue in relation to funding, adequate consultation and planning. The EIS also resolved that nothing should compromise either the teaching and learning of others—which echoes Lord James Douglas-Hamilton's point that the few should not affect the many—or the health, safety and welfare of staff and pupils. Those are real issues.

I took exception to Fiona Hyslop's speech only when she seemed to confuse social, emotional and behavioural difficulties with special educational needs and social inclusion. She did not seem to know the difference between the two. Indeed, I thought that Robert Brown, too, was a bit confused about the issue. It is important to remember Lord James Douglas-Hamilton's comments about carrying out some background work before we come to the chamber.

**Ms Byrne:** Does the member not appreciate that the range of special educational needs includes SEBD?

**Dr Jackson:** That is exactly what I said. The Scottish Parliament information centre report that we received today points out that

"there is no agreed definition of SEBD and that SEN covers a much wider spectrum—indeed only 4.3% of pupils with Special Educational Needs ... had their main difficulty reported as social and emotional difficulties".

That makes my point. We should not equate SEBD with the whole social inclusion agenda.

Although it is important to realise that, as Fiona Hyslop and Rosemary Byrne were correct to point out, there are real issues to address, we must accept that we are making real progress. The discipline task group has made important recommendations and suggestions on how to move forward. We must also remember that we have the McCrone agenda and that work is continuing on the second stage review of teacher education. I hope that Fiona Hyslop and the

Opposition accept that we are addressing those issues in the long term.

15:53

**Alex Neil (Central Scotland) (SNP):** Although Fiona Hyslop and I both went to Ayr Academy, the level of excellence in its history classes was never up to the standard of your classes at Belmont Academy in Ayr, Presiding Officer. Perhaps I should point out that the discipline at Belmont Academy was also excellent.

**The Deputy Presiding Officer:** You will not get any more time for those comments.

**Alex Neil:** The issue is complex. After all, many factors contribute to indiscipline in our schools. I will highlight one factor that has not been mentioned so far in the debate—motivation.

In some cases, pupils are unruly or undisciplined because they are not adequately motivated by what is going on in the class. That might be because of the curriculum or because they do not have a good relationship with the teacher. Indeed, the teacher's inspirational qualities might not live up to a pupil's needs.

As well as examining a range of issues within the school and the many other important issues that Rosemary Byrne raised, we should find out how we can improve motivation among our young people in the classroom. I will give the chamber some examples in which practical steps could be taken to improve motivation in both primary and secondary education.

One practical step relates to class sizes. We all recognise the importance of reducing class sizes in order to improve the quality of education. The evidence shows that a by-product of smaller class sizes is better discipline in class. That is because more attention is paid to each pupil and children feel more motivated when they are part of a smaller group where any misbehaviour is more likely to be noticed not just by the teacher, but by the child's peers in the class—in those circumstances, children often apply peer pressure on others to behave themselves.

**Johann Lamont:** Does the member agree that some children are vulnerable because of difficulties at home or what they get up to outside school and that a class of even 15 or 20 can be a difficult place? Does he also agree that we should be seeking flexibility in schools to allow for very small groups to be organised at certain times and for bigger groups to be managed elsewhere? We have to be careful not to be too prescriptive about class numbers, although I acknowledge the important points that he makes about how people get on in class.

**Alex Neil:** I could not agree more with Johann

Lamont—what she says is absolutely the case. However, I am arguing a point of principle: if class sizes were smaller than they are in many areas at present, that could contribute to better behaviour in the classroom.

My second practical step would apply particularly to secondary education. We need to introduce more flexibility for children aged 14 and above. In some cases, we are forcing those children down a route to stay at school when in fact they are ready for further education or even vocational training.

**Dr Jackson:** What are the member's views about incorporating vocational education into the school curriculum? Does he support the Conservatives' suggestion that children should go to separate schools when they are 14 or does he believe that vocational education should be included in the existing secondary school curriculum?

**Alex Neil:** I would allow such children to go to further education colleges. Earlier this year, in the first session of Parliament, the Enterprise and Lifelong Learning Committee addressed that issue in its lifelong learning report. We achieved all-party agreement that far greater flexibility from the age of 14 onwards would be beneficial—

**Rhona Brankin:** I was a member of that committee and I would not want Alex Neil to leave members with the impression that it agreed that children should be separated at the age of 14, with some being siphoned off into FE colleges. Schools should be able to provide flexibility in conjunction with FE colleges and if pupils wish to remain in school they should be able to do so.

**Alex Neil:** With Rhona Brankin in the chamber, I would never try to mislead anyone—I know that I would get three of the belt from her if I did.

Flexibility is the key issue in relation to motivation. One of the reasons—although not the only reason—why we should introduce that flexibility would be to improve the motivational levels of those of our 14-year-olds who are not keen to take an academic route in school that will lead to university.

I have given examples of practical steps that could be taken in respect of class sizes and 14-year-olds and, finally, I want to emphasise the importance of external resources and support. I do not have time to develop my point, but I specifically mention the resources that are available to help children with autism and in particular with Asperger's syndrome. Frankly, the resources to support such children are still wholly inadequate to meet their needs.

15:59

**Margaret Mitchell (Central Scotland) (Con):** I congratulate the minister on choosing the subject of the debate. The issue is vital and—crucially—it is one over which the Parliament has the power to do something. However, I hope that his opening remarks do not represent an attempt to underplay what is a real problem in Scottish schools. I have had almost 20 years' experience of—as the public see it—a real job at the chalkface and there is absolutely no doubt in my mind that discipline is the most important issue to be tackled if we are to improve standards in Scottish schools.

No one measure will of itself solve the problems that teachers face in coping with disruptive pupils, but a number of key areas must be addressed in order to tackle those problems seriously. We should start by recognising that discipline begins at home. For proof of that, if anyone needed it, we need look no further than primary 1 classes Scotland-wide, where it is, sadly, not uncommon to have a five-year-old child totally out of control.

Intervening early to curb that pattern of behaviour, which is learned at home, can be done only by working in partnership with parents. That is a potential problem in itself. The stereotype of a parent is of someone who is interested in their children's work and supportive of school. Although the vast majority of parents conform to that stereotype, a growing number of parents did not have a good learning experience and are now anti-school and anti-teacher. More needs to be done, therefore, to promote parenting skills and to break down the barriers that lead to a continuation, or even an escalation, of disruptive behaviour. North Lanarkshire Council is to be commended for promoting two booklets, published by the Family Caring Trust, that outline a commonsense approach to parenting.

The Scottish Executive, the SNP and the SSP all seem to favour a reduction in class sizes. That is a worthwhile aim if no discipline problems exist. In response to Alex Neil, I can confirm that our stance is a point of principle, but it is not about numbers. The principle is that there must be the flexibility and the mechanism for removing disruptive pupils from the class; if that mechanism does not exist, the benefits that people hope will accrue from smaller class sizes will not materialise. That must be the Scottish Executive's first priority.

In primary schools, an overcrowded curriculum puts pressure on teachers to cover too many subjects, many of which are activity based. That in turn provides more opportunity for potentially disruptive pupils to play up. More emphasis on core subjects would aid learning and help to improve education standards and discipline. East Ayrshire Council's framework for intervention

provides a systematic approach to dealing with low-level disruptive behaviour in the classroom and is worthy of further examination as a model for a comprehensive strategy to tackle discipline problems.

If the minister is serious about promoting better behaviour, he must realise that there are limitations to the Executive's mainstreaming policy. For some children currently attending special schools, mainstream education is simply not appropriate. Alana Ross, president of the EIS, said:

"Sometimes including one child can be to the detriment of others."

There must still be alternative education provision for some young people who need it.

**Mrs Ewing:** Will the member give way?

**Margaret Mitchell:** Yes, certainly.

**Mrs Ewing:** I thank Margaret Mitchell for allowing me to intervene. Of course, Margarets are all saints in Scotland.

As someone who is qualified in special educational needs, I understand the complexities involved in referring a child to a special school. I had to go through that process, counselling parents and saying, "I think this is the best course of action for your child." Does Margaret Mitchell understand how difficult that can be at times?

**Margaret Mitchell:** As someone who has taught in special schools, I know that that environment is comfortable for many of the children and that to remove them purely for reasons of social inclusion—almost political correctness—would be criminal.

There must be alternative provision for young people who need it and with whom mainstream education cannot cope. The question for the minister is whether he will accept that fact and act accordingly. Failure to do so will undermine all the initiatives that are being taken and the hard work that is being done to tackle discipline problems in Scottish schools.

16:05

**Scott Barrie (Dunfermline West) (Lab):** I start by picking up on a couple of points that Margaret Mitchell made. I congratulate her on highlighting the attempts made by two Labour local authorities with respect to the difficult issue that we are discussing. It is comforting to hear our political Opposition congratulating Labour local authorities for a change, rather than criticising them.

On the point that Margaret Mitchell made about parents with poor educational experiences and children with difficulties—

**Margaret Mitchell:** I hope that the member's criteria for considering such initiatives are not based on narrow dogma and the political party that introduces the initiative, and that he welcomes initiatives that can be embraced Scotland-wide. If he is being serious, I hope that he considers initiatives in that spirit.

**Scott Barrie:** I deliberately picked up on the fact that the member mentioned two local authorities that are Labour controlled for the very reason that she mentions. Too often in the past, when speaking about education on behalf of the Conservatives, Murdo Fraser in particular has spent most of his time having a go at Labour-controlled local authorities.

Margaret Mitchell made a worthy point about the difficulties that parents with poor educational experiences have. However, we should recognise that times have moved on, certainly since I was at school. Then, parents were actively discouraged from being involved in their children's education and were kept at arm's length from schools. The only times when parents were in schools—apart from the annual parents' evening—were when their children had done something wrong. The change in emphasis in our education system towards bringing parents into their children's schools, particularly in the primary years, should be welcomed. That change has been quite successful.

We are fortunate to have as MSPs so many former teachers who can bring their particular expertise and ideas to debates such as this. I am not a qualified teacher, but I spent almost 15 years working with youngsters with social, educational and behavioural difficulties.

I note that the Executive has dropped the formal target to reduce school exclusions by one third, but it should be acknowledged that it was necessary to highlight school exclusions as an issue. In the past, the number of exclusions often had little to do with what was happening in a school and more to do with the school's general ethos. I remember that, when I first started my social work practice in the early 1980s, two high schools that served exactly the same catchment area had exclusion policies that meant that one school had the highest number of exclusions in Scotland and the other had a considerably lower-than-average number of exclusions. There was no explanation for that situation, except the schools' ethos.

We must be careful about saying that indiscipline issues in our schools can be resolved simply by giving more power to head teachers to do whatever they wish to do in their schools. Too often in the past, young people were on an exclusion merry-go-round. They would be excluded from one school, sent to another school

and then excluded from that school. From previous debates, we know the appalling statistics relating to youngsters who have been outwith the mainstream education system and the resultant blighting of their life chances.

Like others, I accept that a small minority of pupils are disruptive in our schools, but their actions have a grossly negative impact on teachers and other pupils and students. Sometimes when we discuss exclusion and disruption in schools, we forget about the effects on other pupils. The issue is not just about the effects of disruption on teachers or their difficulties with teaching, but about the difficulties for other individuals, particularly in relation to bullying. We have begun to acknowledge that the problem of bullying is perhaps far greater than had been recognised in the past and we are now doing something about it.

On Monday afternoon, I was at Queen Anne High School, which is in my constituency and which has just been rebuilt. I went round it with the rector and talked to youngsters in the learning and behavioural support units. Among the consistent themes that emerged when we discussed the differences between the old Queen Anne High School building and the new building were how much safer youngsters felt in the new building, the importance of safety for pupils who have social, educational and behavioural difficulties and how those pupils' views of the school had changed.

Rosemary Byrne spoke of inter-agency working both within the school and outwith it, involving guidance staff, educational psychologists, community education workers and social workers. I welcome her comments. If we are to resolve the difficulty, we should not regard what happens in schools as happening only in schools—far too often, what happens in schools is a mirror image of what happens in our communities. We should not regard indiscipline in schools as having nothing to do with what goes on outside them. It is important that the agencies that are involved with families outwith our schools are also involved with youngsters in the schools.

We must think about the youngsters who have difficulties. However—I return to an issue that I have talked about in the past—the Children (Scotland) Act 1995 gives local authorities a corporate responsibility for the welfare and well-being of children. Too often, we compartmentalise those youngsters' difficulties and see them as educational or social problems but not as local authority difficulties that the local authorities must solve by working together.

16:11

**Robin Harper (Lothians) (Green):** I pay tribute to my former colleagues in the teaching

profession—all of them well trained and doing extremely good work in the classroom with, for the most part, excellent materials, although everybody could do with better resources. Over the years, plenty of attention has been paid to the development of all the subjects in our curriculum. I will address first the Executive's document and, secondly, my concerns about the overall shape of our education system and how that is relevant to the debate.

I am pleased that the word "support" appears in the document on at least eight occasions in the context of our directly supporting, in one way or another, children who have problems. However, I am concerned about some of the language that is used in the document: "positive discipline", "managing", "discipline", "expectations", "rewards", "behaviour", "management", "disciplinary matters", "conduct and behaviour", "mechanisms", "responsibility", "behavioural difficulties" and "behaviour management". I pluck those words and phrases out of the 36 recommendations in "Better Behaviour—Better Learning". The language of the document suggests that the mindset behind it is similar to the mindset behind the antisocial behaviour bill, which has not been especially well received by many of the people who deal with the concerns of children and young people in Scotland.

As Fiona Hyslop said, if we do not solve the problems of indiscipline, we undermine the possibility of young people reaching their potential. Our system is not assisting young people to reach their full potential. Over the past 20 years, there has been a continual chipping away at the provision of music, art, physical education, dance, craft and design and outdoor education. What should we do with children who have problems with self-worth? We should get them out into the countryside, doing something and meeting challenges. We should get them outside, risk taking. If young people have problems in adapting to society and getting on, we should put them on courses run by the Airborne Initiative and the Outward Bound Trust. If a school wants to help its young people to socialise and get used to collective working, it should send the whole first year to an outdoor learning centre. We need to recognise that education is an experience, not a process, for our young people.

The Executive's document will address the problems in some ways, but a lot of it is to do with either commonsense measures or initiatives that might or might not work. Above all, it is mechanistic in its approach. We need to look at things from the child's point of view, but this is a top-down document. Is indiscipline among young people always a function of the child, or is it a function of the way in which the child or young person reacts to the education system? I would

say that in many cases it is the latter. The system does not provide enough for some children to realise their potential.

**Ms Byrne:** Will the member give way?

**Robin Harper:** No. I am sorry, but I am the only member to speak for the Scottish Green Party.

The 36 suggestions in the document are fairly sensible, but 10 of them are about control, 13 are about uniformity and 11 are about providing resources and cash; only eight provide us with new ideas.

We need a system that is fit for purpose to produce confident, skilled young people whose potential is largely realised or encouraged while they are at our schools. We must recognise that fulfilment, self-worth and opportunities to work and act collectively are crucial to engaging fully all our young people in the educational experience.

I will go through many of the outside organisations and people who have offered guidance. First, there was R F Mackenzie back in the 1960s, who challenged our system and said that it could do so much more to help young people to realise their potential.

A second guidance source is the grounds for learning week. This week, schools throughout Scotland are getting children of the classroom and into challenging situations. A third source is the home education movement, which will take some pleasure from recommendation 22 in the Executive's document.

Another source of guidance is Professor Peter Higgins, who has been developing at Moray House school of education a training course for all holders of the Bachelor of Education and graduate teachers—that course is now on the shelf. A further source is Professor John Smythe, who worked for years on the Scottish environmental education council and whose reports are still gathering dust somewhere in Victoria Quay. Other guidance sources are the Scottish Environment Protection Agency, the eco-schools, education 21, the WWF, Scottish Centres, the Institute for Outdoor Learning, the John Muir Trust, RSPB Scotland and the Lagganlia and Benmore Lodge outdoor education centres.

None of those sources is working in an educational environment that will focus on and help them to develop our education system towards where I think it should be going. *[Interruption.]* Someone muttered from the audience.

**Mike Rumbles (West Aberdeenshire and Kincardine) (LD):** Keep going, Robin.

**The Deputy Presiding Officer (Trish Godman):** I am sorry but you will not keep going, Mr Harper. You will finish now.

**Robin Harper:** I will wind up by saying that, as far as I know, the Executive's big education debate has been shelved. However, we need to reignite that debate and take a look at what our entire education system offers our young people. The Executive should not simply think that producing the "Better Behaviour—Better Learning" document will solve everything.

16:18

**Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD):** And yet, and yet—it is not all bad news out there. Let me describe the situation in the very far north. I suppose that what will follow will be an unapologetic advertisement for my constituency. If members look back at Highlands history, they will see that the very far north was a rough place. As John Farquhar Munro and Alasdair Morrison know well, the McKays used to come stravaiging out of the north and lay waste to the lowlands or the gentle towns that were not really Highland towns, such as my home town of Tain. If one goes back to burgh minutes, one sees that, time and again, the McKays came into a town, stole all the cattle, raped the women and generally trashed the place.

And yet, if I took members north to Farr High School, in Bettyhill in Sutherland, they would find one of the best examples of good practice. The key is the quality of the leadership of the rector, Jim Johnston. He is humane in his approach and courteous, and he expects courtesy from pupils in the way that they treat their teachers, one another and, indeed, the rest of society.

There are two examples of good practice in the school that I think would be of interest to members. There is a care group, which consists of Liz McIntosh, who is the principal teacher of management, the rector, the deputy rector and a guidance teacher. That group works well; it reviews individual cases and, if a problem is flagged up, the group can take that on board, track it and seek a solution in a personal way through a yellow-card system. If a pupil is guilty of a misdemeanour, they are given a yellow card, which means that for the next 24 hours the teachers of all the classes that the pupil attends sign off the yellow card and comment on the pupil's performance. That personal approach is about tracking pupils, which seems to work in a positive way. People might say that it is all very well doing that in a small Highlands school, but I think that that is an example of good practice. When ministers and others go looking for examples of best practice, they should take in a wide geographic spread.

Farr High School has a pupil council that is involved in Highland Youth Voice and the Sutherland teenage action group. This is an old point—I know that Rob Gibson and Peter Peacock have heard me make it many times—but empowering pupils and giving them the dignity that comes from having their views accepted and listened to can go a long way towards young people taking responsibility for their actions. We have all seen that work—the minister and I have seen it work in the Highlands in the past. We should listen to pupils, learn from them and tell them that their views are important.

Earlier, the point was made, wisely, that the issue is not only about schools but about society in general. I hope that the day will come when every community council in Scotland will include a few members of the fourth, fifth or sixth years of the local secondary school as that will make a huge difference.

Until we take young people seriously, we will not do a lot to improve the discipline situation. However, there are many examples of good practice in the country and I urge ministers to visit those schools and take from them what knowledge they can.

16:21

**Marlyn Glen (North East Scotland) (Lab):** I welcome the restatement in this debate of our commitment to children and young people and, in particular, the emphasis on behaviour in schools. I will also comment on the proposed review of teacher training.

Like others, I talk from a position of some recent experience. This year, I was one of the teachers from my school who produced a response for the EIS survey on social, emotional and behavioural difficulties. Further, because I filled in some of the reports on assaults on teachers, I have even taken complaints to the police. However, I do not think that we do teachers any favours if we concentrate on the small minority of pupils who are extremely disruptive. Although I agree with the call for resources, alternative provision and, in particular, social workers, I am disappointed that, at times, the tone of the debate has been disheartening. That is not helpful to education.

On behaviour, instead of a late concentration on exclusion, schools are encouraged to consider positive behaviour models, which is a much better approach. The nurturing of a positive atmosphere, in which people can work unimpeded by interruptions, is a strategy that every establishment should strive for. In that regard, I would like to add to Lord James Douglas-Hamilton's comparison of schools with our place of work. Yesterday, at the Equal Opportunities

Committee, we new members expressed our delight at the welcoming and helpful atmosphere in the Scottish Parliament and congratulated the personnel office on its achievement. That atmosphere has been deliberately nurtured and encouraged through on-going training and monitoring. One of the Parliament's staff told me about the effects that his being positive has on the driver of the bus that he takes to work. He said that he has started to smile and say good morning and that the driver is beginning to respond positively and spread good feelings generally. That simple but effective strategy is being introduced into schools and is needed to improve the ethos.

However, it is difficult for some pupils to adopt that strategy as they are frightened that something more will be read into a friendly greeting than was intended or are set against showing any softness in front of their peers. That is what teachers are up against when they try to change the ethos of the school.

Although improving academic excellence is still a major goal, we are also striving to develop different kinds of intelligence, such as emotional intelligence. Education is involved in a different ball game now but people are beginning to pick up on such concepts—in fact, emotional intelligence was mentioned on “The Bill” last night, so the idea that different kinds of intelligence should be encouraged is beginning to get into popular culture.

Our young people are entering a much more complex society and need diverse skills. One size does not fit all—not for schools, teachers or pupils.

I welcome the review of teacher training but caution against making changes for the sake of it. The recent McCrone agreement, detailed in “A Teaching Profession for the 21<sup>st</sup> Century”, has already brought about a great many changes, some of which, such as the restructuring of promoted posts that is going on around Scotland, will take years to bed in.

Education is an ever-changing environment. Whatever up-to-date methods or approaches are introduced, it is important to remember that, after 10, 20 or 30 years of teaching, the thing that will remain the same for a teacher is that there will still be change. Teachers have to cope with that changing environment positively to help pupils to thrive.

The minister has announced that more emphasis in training will be put on classroom management, which is itself an ever-changing skill. Nowadays, we expect the curriculum to be tailor made to reduce boredom. Of course, if a pupil is interested in a subject area, they will show their interest and learn more easily and more

thoroughly. However, we now expect the curriculum to include citizenship, health, parenting skills and anti-bullying measures, which are all essential. Citizenship is essential because we want and need our society to flourish. Health is obviously essential and deserves its new emphasis in the present climate. With the roll-out of the new community school approach, every school will soon become a health-promoting school. Discussions on how to stop bullying are absolutely necessary, and I have always believed that there should be room on the curriculum for discussions about basic parenting skills. We expect a great deal from new teachers because, as well as all that, they must be aware of the array of learning needs from dyslexia and dyspraxia to disaffection, which is possibly the most challenging need of all.

**Fiona Hyslop:** I agree with Marlyn Glen about the importance of teacher training and welcome the Executive's announcement this week. Does she agree that pressures on new teachers will increase purely and simply because of the number of older teachers who are retiring and that new teachers will face many pressures in the next few years?

**Marlyn Glen:** Yes, I certainly agree. The age profile of teachers needs to be examined carefully. I welcome the idea that the age profile should become lower, so I welcome young teachers into the profession.

On top of everything else that teachers have to do, they have to lose their focus on their own subject specialisms so that pupils are fully prepared for further and higher education and for work. We must consider carefully what the point of education is. It is not only for work, although a well-educated work force is crucial to growing our economy. Different kinds of wealth are to be encouraged; we need education to increase social wealth, too, and young people therefore need to be educated for their own lives, as well as for work. That is sometimes forgotten.

Our young people can be surprisingly worldly wise. Sometimes, their expectations can be too low. Most of them have few illusions about the paths that their lives will take, and we need to help each of them to see their potential. That concentration on the individual has changed education for new teachers and pupils.

I note the slogan “better teaching, better learning”. It is powerful, but we must be careful of the messages behind slogans and ensure that they are positive. Perhaps it would be better to say, “Better teachers mean better teaching,” but we must acknowledge that teachers strive all the time. I therefore suggest as a slogan “even better teachers, even better learning”. I urge the minister not only to consider policy, but to set a positive tone.

16:28

**Mr Rob Gibson (Highlands and Islands) (SNP):** We are debating a long-term, comprehensive plan of action to promote better behaviour for better learning in our schools. I was a teacher from the early 1970s to the mid-1990s and I would like to mention a number of aspects of that experience—from the child's point of view and from the teacher's—that are still relevant to the debate.

Some of the revealing remarks about the way in which teacher training must change have long-term implications. We have been talking for the past three decades about making teacher training more relevant to ensure that, when teachers land in classrooms, they are able to manage the conditions that they are likely to face.

**Ms Byrne:** Will Rob Gibson give way?

**Mr Gibson:** I ask Rosemary Byrne to let me get into my stride. I will not give way at the moment.

I was a guidance teacher for 17 years and I point out that guidance teachers had some of the better training for dealing with the counselling that was required when children had to be removed from a classroom or were excluded.

Some fundamental aspects of education have not changed—the buildings for a start. Apart from a few that have been designed for the purpose, the buildings do not lend themselves to allowing teachers to maintain contact with a child when that child is excluded or removed from the classroom to enable intervention to take place so that they behave differently when they come back into the classroom.

Exclusion is a removal. The disruption of the learning process for the majority in the classroom is a major issue and the disruption for individual who has been removed is never overcome. In that situation, a spiral of decline develops. That is a fundamental part of the problem in secondary schools. In teacher training colleges, such issues were rarely addressed properly for many decades up to the present.

The teachers who will be recruited come from the modern society with which we now deal. They, too, may be disaffected. Most of us know what disruptive behaviour is like because we have been involved in it as pupils. We may have been disruptive in a mischievous way when we were young, but in some cases the cause may have been low self-esteem—who knows? Perhaps some people's self-esteem improved as they became adults. However, we must recognise that in the classroom the system will always be tested by pupils, whatever their age. Teachers must be able to cope with a situation in which children want to kick over the traces, even for a short time.

If the long-term, comprehensive approach is to be effective, we must find the skills and time to give teachers the experience to pick up new ways of dealing with disruptive behaviour. Robin Harper said that we have a well-trained work force. We have a work force that is allowed to spend more time on training that may be targeted more specifically by the system than it was before, but the question whether teachers are better trained to deal with the circumstances that they have to confront remains unanswered.

My experience is that some of the best initiatives have come from individual schools and teachers. They include the anti-bullying strategy from St John's Town of Dalry and the buddying system that we learned about in videos from Perth High School. That good practice was cascaded throughout the country, but it did not emanate from teacher training colleges or elements of the formal training that the system provided. The minister will have to ask very searching questions of the system and provide us with some more specific answers today.

The range of support services in the classroom may be increasing, but because we have identified many more things that make it difficult for children to learn we will have to include in teacher training the means to deal with those. I am glad to hear that some of the initiatives to which Marlyn Glen and Sylvia Jackson referred are beginning to help teachers to deal with the problems that they face. However, the way in which the structure of management in schools has changed is a major drawback, as it may prevent teachers from becoming more effective. At this time of the McCrone changes, the idea of subject departments in a secondary school is changing and the direct line to a principal teacher is becoming more attenuated. The structure of teaching in schools does not make it easier for teachers to be given more back-up in the classroom and to deal with the range of problems that have increased in recent years.

It is important that we take on board at ground level the experience of those who have been teachers. That will allow good initiatives to be taken in local areas and cascaded to the rest of the system. We do not always create a better system by reinventing the wheel in each school. I want the system to be able to prepare teachers much better for the circumstances that they will face. The SNP amendment stresses the importance of teacher recruitment for improving discipline, but we must bear in mind the points that I have made about the training that teachers receive.

16:34

**Rhona Brankin (Midlothian) (Lab):** Like other members, I welcome the topic for the debate and

the fact that we are making the connection between behaviour and learning. Learning is dependent on behaviour, pupil attitude and pupil self-esteem. However, it is also dependent on teaching.

Rob Gibson raised the interesting issue of the quality of initiatives derived from schools. I taught in the school where Rob Gibson taught, in Alness in Highland region, which faced particular challenges. There is no doubt that some schools face particular challenges, but some have come up with whole-school systems and approaches to behaviour that allow them to deal better with the range of pupil behaviour that they come across. Research has shown that, of two schools with similar catchment areas, one might have a high level of exclusions and the other a low level of exclusions. That does not mean that the school with the low level of exclusions has a problem with poor behaviour. We have to acknowledge that many schools have devised whole-school approaches to behaviour. Educators can get better at dealing with the range of pupils in schools now.

I refute the point that Fiona Hyslop made. We have to be careful not to confuse social inclusion with mainstreaming. The number of youngsters in special schools remains relatively stable. In this day and age, schools face particular problems that reflect the problems of society. One of the major differences in schools nowadays is the number of youngsters who are touched by drugs, whether that involves their own drug taking or drug taking within their family or community, and that poses schools particular difficulties.

Schools need to be able to provide extra support for pupils with the most complex emotional and behavioural needs. There is no doubt that there are times when it is not appropriate for pupils with emotional and behavioural difficulties to be educated in the classroom alongside their peers. As Johann Lamont said, schools need to have the option for pupils to have intensive one-to-one work. That option is more important for some schools than it is for others, but it needs to be in place.

For the majority of pupils, we need teachers who are well trained, well motivated and, which is important, well supported. The majority of discipline problems in schools are low level, but saying that in no way downplays the seriousness of the problems that some schools face.

**Ms Byrne:** Does Rhona Brankin agree that if we are going to do something about low-level indiscipline, we need to consider class sizes? To have 30 to 33 pupils in a class with one teacher, in today's education system, with the range of needs that today's classes have, does not work. It is time to consider seriously a reduction in class sizes.

**Rhona Brankin:** I think that it is much more complex than that, although I certainly welcome the move to reduce class sizes in S1 and S2 English and maths. Consider two subject teachers who teach the same class. One of them might have great difficulty with the class, but the other might be more experienced and better able to handle the class and its range of needs. There are major implications for continuing professional development. When students leave initial teacher education, their development is just beginning. We need high-quality continuing professional development and schools should be supported so that they can provide that themselves. Many schools have many highly professional teachers who are good at dealing with pupils who have emotional and behavioural difficulties. We need to use their expertise. I welcome the review of initial teacher education. Let us use the strengths that already exist in schools and ensure that in initial teacher education we have people who have recently been in schools, in order to maximise the use of that experience.

I will be interested to hear the minister's response to my final point, which is that we tend to separate schools and youth justice issues. We talk about indiscipline in schools, but in my experience the youngsters who are the most difficult to deal with in schools are the ones who get into problems in the community and who come from homes that have difficulties. Please can we think in a more joined-up way about the connections between schools and youth justice issues?

**The Deputy Presiding Officer:** I have been informed that, because of some problems, the alarm may go off. It will be a false alarm. Members do not have to leave if the alarm goes off.

16:40

**Murdo Fraser (Mid Scotland and Fife) (Con):** I am always setting off alarms—in people's heads, at least.

I approach this debate with a degree of nostalgia, thinking back to education debates in the previous session of Parliament. I am pleased that I managed to leave Scott Barrie with some warm memories of my participation in those debates. This afternoon's debate has been good and well informed, with many interesting speeches. We miss the contributions that the SNP's Colin Campbell made in the previous session. As a former head teacher, he always made intelligent and well-informed contributions, especially on school discipline. My colleague Margaret Mitchell, who is a former schoolteacher and has worked in special needs schools, brought her experience to the debate. I also enjoyed Rob Gibson's speech. He spoke from experience and was well informed.

Anyway, that is quite enough cross-party consensus from me. The Scottish Conservatives welcome the Executive's commitment to tackling the problem of indiscipline.

**Mike Rumbles:** However.

**Murdo Fraser:** Yes, Mr Rumbles, however. However, the top-down target-setting approach that is so beloved of the coalition partners has simply failed to address the problem. As the minister well knows, the number of violent incidents in our schools rose by a staggering 700 per cent between 1997-98 and 2001-02. That is the shameful legacy of the Executive's disastrous exclusion policy.

When I listened to the minister, I thought that he must have spent the morning polishing his brass neck. He sought to deflect criticism of the Executive's record by accusing the Conservatives of overblown language and of over-egging the pudding. He did so simply to deflect criticism away from the Executive's disastrous record. We do not believe that there is a problem in every school in Scotland and we have never said that we did. However, we know that the problem is getting much worse. It has got much worse as a result of the Executive's policies and we have yet to hear from the Executive what it will do to make things much better.

We need to give more power back to our schools, rather than bewildering them with yet more failed Executive initiatives. The Executive needs to give more power to individual schools to deal with indiscipline. For example, head teachers must be encouraged to draw up their own code of conduct and must be given the authority to enforce it.

**Mike Rumbles:** Will the member take an intervention?

**Murdo Fraser:** I will, if the member is brief.

**Mike Rumbles:** Experience has shown that in schools up and down the country the best way to have a code of conduct is to get the pupils to design it themselves. It should not be imposed from above, as the Tories keep insisting it should be.

**Murdo Fraser:** Oh, Mr Rumbles. As he well knows, we have no intention of imposing anything from above. Imposing from above is his coalition's policy; we want to devolve power to schools. But yes, let us involve the pupils too, in what would preferably be a zero-tolerance policy. When I speak to school pupils, I hear that they are as fed up with disruptive pupils as are teachers and parents.

We have problems in our schools. I had a letter from a constituent just the other week about problems in a school in Forfar where pupils were

out at lunch time being disruptive and making a nuisance of themselves. I have tried to take the matter up with the school. However, we also have good examples. Blairgowrie High School—my local high school—had pretty serious problems during the previous session of Parliament. There was disruption, there were violent incidents and one pupil had to go to court to get an interdict against some of her fellow pupils so that she could get on and sit her exams in peace.

I am pleased to say that things have been turned round there. A new head teacher has come in, provided leadership in the school, and imposed a uniform policy that has considerably improved the ethos of the school. The pupils and the teachers are enjoying the new environment. It is all about a contract between the pupils, the teachers and the head teacher. Leadership is being provided locally and it is working. That is a model that should be followed elsewhere.

We believe that the current one-size-fits-all system in Scotland is too rigid and fails too many of our young people.

I thought that Alex Neil made a good point about the lack of motivation, because it is in the S3 and S4 age groups—particularly among the boys—that there is a real disengagement with the system. Sometimes pupils in those age groups see schooling as being boring and irrelevant to their needs, which leads to their becoming a source of indiscipline in the classroom. We want such pupils to be given the alternative option of moving into further education and working on vocational courses that are more in tune with their needs and wishes. In that regard, the trial that Glasgow City Council has carried out should be rolled out throughout Scotland.

Rigid mainstreaming policy does not work—it has failed. We need more local leadership and we need the Executive to scrap the ludicrous policy of targets for exclusion that has driven up the statistics on violent attacks.

16:45

**Mr Adam Ingram (South of Scotland) (SNP):** During her opening speech for the SNP, my colleague Fiona Hyslop drew on ordinary teachers' experience of unruly pupil behaviour, which is highlighted in the latest edition of the General Teaching Council for Scotland's monthly magazine. I make no apology for returning to that source, as I believe that it is the authentic voice of the chalkface. Its article on indiscipline states:

"We consider chronic indiscipline to be the most serious problem facing Scottish teachers."

It goes on to complain bitterly that teachers' local authority employers have failed to protect both

their rights to work in a safe environment and the rights of the majority of children, who behave appropriately.

Will today's debate as it is reported in tomorrow's newspapers send a signal to school staffrooms across the country that the Executive and the Parliament are serious about ensuring order in Scotland's schools, that we acknowledge that the 2001 discipline review has only partially addressed the problem and that much more effective action to tackle it will be forthcoming? We need an answer to that question today.

The open part of the debate was particularly good and I have no doubt that the preponderance of former teachers among members contributed to that. Robert Brown made good points, although I believe that he is not a former teacher. He argued that discipline is not about control and sanctions but about the need to establish support systems, especially for those children with social, emotional and behavioural problems.

Rosemary Byrne, who has considerable professional experience, developed that theme and called for the proper resourcing of joint action teams. Like her, I am concerned about the incidence of mental health problems, such as depression, and the growing trend for the use of behaviour-controlling medication among our schoolchildren. She made an excellent suggestion about developing mentoring schemes, which should be taken up.

Scott Barrie also drew on his experience from a previous life. He made pertinent points on parent involvement and the exclusion merry-go-round. Given the increased devolution of powers to head teachers, it is clear that HMIE has an increasingly important role to play.

I will now address the ministers. Although we welcome the measures that have been announced, especially those that are designed to provide teachers with training and support in dealing with disruptive behaviour, we question whether they go far enough fast enough. As Sylvia Jackson, Rob Gibson and others highlighted, training is important. It is apparent that, in teacher training courses in the past, dealing with disruptive behaviour has not been given anything like the prominence that it should have been given. My wife, who is a secondary school teacher, can recall only one class that covered the subject during a full year at teacher training college. Nor has dealing with indiscipline been a huge feature of in-service training.

That said, training should not be regarded as a panacea for all ills. I do not want there to be any reversion to blaming the teacher for not being up to the job of class control. Too many head teachers and education authorities have hidden

behind such excuses for inaction and lack of support systems in the past.

We are glad about the U-turn on school exclusion policy that the minister announced. The target was both bureaucratic and counterproductive and it prevented head teachers from taking appropriate action, at the expense of pupil and teacher safety. We want the Executive to go further and devolve discipline policy from local authorities to head teachers. That is not to say that education authorities should not provide support in the form of guidance. I commend Glasgow City Council's education department for its recently published guidelines on dealing with attention deficit hyperactivity disorder.

The SNP will push four main policy issues. First, we must establish a rights and responsibilities code to instil a sense of personal responsibility and self-worth among pupils. Secondly, there is a need to establish a zero-tolerance culture in the classroom, coupled with a strategy to change behaviour by expanding alternative curricula or, as Lord James Douglas-Hamilton and Alex Neil advocate, increasing access to further education. For more seriously disruptive students, there should be temporary exclusion centres where behaviour change is made part of the learning process.

Thirdly, we should acknowledge that early intervention is critical to nip problems in the bud. Smaller class sizes have a role to play in facilitating that process. Finally, schools should be properly resourced so that they can deal with indiscipline.

I will close on that and commend the SNP amendment.

16:51

**The Deputy Minister for Education and Young People (Euan Robson):** Today's debate has been important and there have been some excellent speeches. Peter Peacock set out the Executive's priorities at the beginning of the debate and I will emphasise several points and add some observations. I thank members for their contributions, which we will examine in detail after the debate. I will try to deal with as many points as I can, but lack of time will stop me from mentioning everyone.

I am in danger of adding to Fiona Hyslop's list, but low-level indiscipline, bad behaviour, loutishness and lack of respect for others all adversely the learning and teaching environment and are unacceptable to the Executive—after listening to the debate, I am confident that they are unacceptable to all members. I agree with Fiona Hyslop that such disruption is very wearing. Violent behaviour towards teachers, school staff or

pupils, which is rarer, is of course completely unacceptable. Robert Brown was right to sound a note of caution about the figures. Nevertheless, in response to Murdo Fraser, I say that we do not hide from that problem at all. We know that it exists and we seek to address it. We want to ensure that the once-in-a-lifetime opportunity to learn in school, which is open to all, is not degraded for anyone within the interested and engaged majority by a troubled few.

I agree with Alex Neil's point about motivation. Because I was a classroom teacher—although that was a few years ago—I can recognise his point. I agree that smaller class sizes would help. I will come on to talk about peer pressure and the 14-plus agenda later. I commend Alex Neil for reading the partnership agreement and ask him to read more of it, as I am sure that it will be of great benefit to him. The Executive's commitment is in it. Rhona Brankin also mentioned it.

We have made clear our position on exclusion of the indisciplined. We back local decision making where exclusion is necessary, but we are developing alternatives in partnership with local authorities in schools, because we value every young person.

Lord James Douglas-Hamilton made six proposals with which I have little difficulty. He is right that there should be more freedom for schools. On the proposal to give more exclusion powers to head teachers, Scott Barrie pointed out the pre-target reality on exclusions and his contribution was important. However, there was only a 3 per cent decrease in 2001-02 from the 2000-01 figures for exclusions—the drop has shallowed, if I may put it like that.

Grant in aid is already guaranteed until 2007. On-site units, which Fiona Hyslop also mentioned, are part of the developing agenda. Flexible support in schools is important within the PPP context and I agree with what was said about that.

The role of parents is important. Scott Barrie made a telling point about how, years ago, parental contributions were not on the radar screen, but now they are much more welcome. There was a final point about the 14-plus FE partnership policy, which we thoroughly agree with, and which is in the partnership agreement. We are looking for a coherent, concerted programme to ensure the best learning and teaching environment.

Rosemary Byrne mentioned the important point about increasing the number of social workers. I agree with her. We have been making efforts to achieve that, for the reasons that she mentioned.

Margaret Mitchell said a lot about special schools. We accept that there is a future for special schools and are not trying to close them—

far from it. We believe that they have an important future.

In the remaining time I will concentrate on four areas: the voluntary sector and challenging behaviour, because that was not mentioned in the debate; young people themselves; teacher training and professional development; and good practice in schools.

Our partners in the voluntary sector, such as Right Track in Glasgow, the Prince's Trust and its xl programme, Barnardo's, Aberlour Child Care Trust and NCH Scotland have all contributed to innovation in Scotland to the benefit of young people who require intensive support and creative learning opportunities.

The Prince's Trust's xl programme, for example, works with young people within their mainstream school setting. It involves them in personal learning and development programmes, which have improved their attendance and attainment in the mainstream school curriculum. Right Track develops programmes of intensive personal and social development activities. It allows young people to be involved in addressing some of their social problems while experiencing learning programmes that change their perceptions of what they can achieve. It would be remiss of me not to mention the work with children and families of Aberlour, Barnardo's and NCH. They demonstrate that a view of the whole child, in the context of the family, is essential for those who are struggling with difficult circumstances.

**Donald Gorrie (Central Scotland) (LD):** I have a question on another aspect of the voluntary sector. Would the minister consider encouraging schools to encourage young students to volunteer in the traditional sense, provided that the activities are well supervised? That volunteering might provide the excitement that is needed, which they could also get from the 14-plus curriculum or the sort of things that Robin Harper mentioned.

**Euan Robson:** I accept the member's point. Volunteering is important.

I turn now to pupils' involvement in developing a framework of rights, responsibilities and school rules, which make all our schools positive and safe learning environments. A lot of good work is being done throughout Scotland to involve children and young people in their schools. That was a recommendation of "Better Behaviour—Better Learning" and I am pleased to say that it has been implemented by many schools. We should congratulate all the children involved and recognise the effort that schools make to develop such systems and to provide training for children and young people to support their peers. The schools that are involved in that important work are too numerous to mention, but I will pick out a few. [*Interruption.*]

**The Deputy Presiding Officer:** Members: order, please.

**Euan Robson:** In Midlothian and many other areas, primary schools operate playground buddying systems. In Fife, the training programmes for peer buddying for young people in school are well established. In many areas, the transition of primary 7 pupils to their new secondary school—for example, Kelso High School in my home town—is made easier by the involvement of senior secondary school pupils, who meet them and are available as buddies and mentors. I visited the peer education project in Dundee, where a more extensive form of peer group involvement is being enthusiastically developed.

Those are examples of citizenship in action, building a strong school ethos and demonstrating the capacity of most of our children for caring and sharing responsibility. Indeed, at the recent Childline conference for young people in Perth, I saw an excellent role-play in which students resolved bullying incidents by peer group pressure and parental involvement. Achieving our national priorities rests on having safe and positive learning environments, but in that regard we must continue to make progress on our national priority of developing the values and citizenship of children and young people.

I turn now to the important points that were made about good practice in schools. Craigton Primary School in Glasgow has in place a very effective reward scheme for well-behaved pupils. I believe that Sylvia Jackson mentioned a similar situation in a school in her constituency.

Hillpark Secondary School, which is also in Glasgow, has policies in which inclusion is key and which help to maintain those with learning or behavioural difficulties in that mainstream school with their peers. The James Hamilton Academy in East Ayrshire, which I think Margaret Mitchell mentioned, has appointed behaviour co-ordinators, who are implementing a staged approach to intervention in classroom indiscipline. That is a good example of good practice. In Grange Academy in Kilmarnock, twilight classes are held in the early evening for those who have been temporarily excluded from the mainstream setting.

Many members commented on the importance of including discipline issues and classroom management in initial teacher education. That point was well made and has been taken on board, as have the points about the importance of including training on discipline issues in continuing professional development. We will take away those points and continue to develop them in the ways that we mentioned earlier. Teachers deserve the best opportunities to develop, as much as our

children deserve skilled and competent teachers. We are committed to meeting the needs of both groups.

I regret that we cannot accept Lord James Douglas-Hamilton's amendment, although we might have accepted it if it had been an addendum. However, we are prepared to agree to the SNP's amendment.

## Business Motion

17:01

**The Presiding Officer (Mr George Reid):** The next item of business is consideration of business motion S2M-404, in the name of Patricia Ferguson, on behalf of the Parliamentary Bureau, which sets out a revised business programme.

*Motion moved,*

That the Parliament agrees—

(a) as a revision to the programme of business agreed on 17 September 2003—

after—

Thursday 25 September 2003

delete all and insert—

9.30 am Scottish Conservative and Unionist Party Business Debate on Europe - with Specific Reference to the Single Currency and the Constitution

*followed by* Scottish Conservative and Unionist Party Business Debate on Public Confidence in the Criminal Justice System

12 noon First Minister's Question Time

2.30 pm Question Time

*followed by* Executive Debate on the Scottish National Theatre

*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time

*followed by* Members' Business - debate on the subject of S2M-210 Mr Kenneth Macintosh: Respect for Shopworkers Day, 17 September 2003

(b) the following programme of business—

Wednesday 1 October 2003

2.30 pm Time for Reflection

*followed by* Parliamentary Bureau Motions

*followed by* Equal Opportunities Committee 1<sup>st</sup> Report 2003 – Mainstreaming Equality in the Work of the Committees of the Scottish Parliament

*followed by* Motion on the Executive's Nominations to the Committee of the Regions

*followed by* Business Motion

*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time

*followed by* Members' Business

Thursday 2 October 2003

9.30 am Executive Debate on Anti-Social Behaviour

12 noon First Minister's Question Time

2.30 pm Question Time

3.10 pm Continuation of Executive Debate on Anti-Social Behaviour

*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time

*followed by* Members' Business

Wednesday 8 October 2003

2.30 pm Time for Reflection

*followed by* Parliamentary Bureau Motions

*followed by* Executive Business

*followed by* Business Motion

*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time

*followed by* Members' Business

Thursday 9 October 2003

9.30 am Executive Debate on Creating an Enterprise Culture in Scotland's Schools

12noon First Minister's Question Time

2.30 pm Question Time

3.10 pm Executive Debate on Scotland's Contribution to Education in the Commonwealth – Past, Present and Future

*followed by* Motion on the Criminal Justice Bill – UK Legislation

*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time

*followed by* Members' Business

and (c) that the Justice 1 Committee reports to the Justice 2 Committee by 22 October 2003 on the draft Title Conditions (Scotland) Act 2003 (Consequential Provisions) Order 2003 and on the Advice and Assistance (Scotland) Amendment (No.2) Regulations 2003 (SSI 2003/421); and that the Justice 2 Committee reports to the Justice 1 Committee by 13 October 2003 on the Gaming Act (Variation of Fees) (Scotland) Order 2003 (SSI 2003/403) and by 22 October 2003 on the Children's Hearings (Provision of Information by Principal Reporter) (Prescribed Persons) (Scotland) Order 2003 (SSI 2003/424).—[Patricia Ferguson.]

*Motion agreed to.*

## Parliamentary Bureau Motions

17:02

**The Presiding Officer (Mr George Reid):** The next item of business is consideration of 21 Parliamentary Bureau motions. Given the significant number of motions, I ask the minister to move them en bloc. They are motion S2M-383, on the designation of lead committees; motion S2M-384, on membership of a committee; motions S2M-385 to S2M-387, on the approval of Scottish statutory instruments; motions S2M-388 to S2M-399, on the approval of SSIs; and motions S2M-400 to S2M-403, on the designation of lead committees.

*Motions moved,*

That the Parliament agrees that the Local Government and Transport Committee be designated lead committee for the Prostitution Tolerance Zones (Scotland) Bill and that either the Justice 1 or Justice 2 Committee (to be decided between the committees) be designated secondary committee.

That the Parliament agrees that the seventh member of the Subordinate Legislation Committee be a member of the Scottish National Party and that Alasdair Morgan be appointed to that committee.

That the Parliament agrees that the draft Mental Health (Care and Treatment) (Scotland) Act 2003 (Consequential Modification) Order 2003 be approved.

That the Parliament agrees that the draft Advice and Assistance (Assistance by Way of Representation) (Scotland) Amendment Regulations 2003 be approved.

That the Parliament agrees that the draft Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) (No.2) Order 2003 be approved.

That the Parliament agrees that the Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (West Coast) (No.3) (Scotland) Order 2003 (SSI 2003/365) be approved.

That the Parliament agrees that the Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (East Coast) (Scotland) Order 2003 (SSI 2003/366) be approved.

That the Parliament agrees that the Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (East Coast) (No.2) (Scotland) Order 2003 (SSI 2003/369) be approved.

That the Parliament agrees that the Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (West Coast) (No.5) (Scotland) Order 2003 (SSI 2003/381) be approved.

That the Parliament agrees that the Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (East Coast) (No.3) (Scotland) Order 2003 (SSI 2003/380) be approved.

That the Parliament agrees that the Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (Orkney) (No.2) (Scotland) Order 2003 (SSI 2003/321) be approved.

That the Parliament agrees that the Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (West Coast) (No.4) (Scotland) Order 2003 (SSI 2003/374) be approved.

That the Parliament agrees that the Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (East Coast) (No.5) (Scotland) Order 2003 (SSI 2003/394) be approved.

That the Parliament agrees that the Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (West Coast) (No.6) (Scotland) Order 2003 (SSI 2003/392) be approved.

That the Parliament agrees that the Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (West Coast) (No.7) (Scotland) Order 2003 (SSI 2003/397) be approved.

That the Parliament agrees that the Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (West Coast) (No.8) (Scotland) Order 2003 (SSI 2003/402) be approved.

That the Parliament agrees that the Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (East Coast) (No.4) (Scotland) Order 2003 (SSI /2003/393) be approved.

That the Parliament agrees that the Justice 1 Committee be designated as lead committee in consideration of the Gaming Act (Variation of Fees) (Scotland) Order 2003 (SSI 2003/403).

That the Parliament agrees that the Justice 1 Committee be designated as lead committee in consideration of the Children's Hearings (Provision of Information by Principal Reporter) (Prescribed Persons) (Scotland) Order 2003 (SSI 2003/424).

That the Parliament agrees that the Justice 2 Committee be designated as lead committee in consideration of the draft Title Conditions (Scotland) Act 2003 (Consequential Provisions) Order 2003.

That the Parliament agrees that the Justice 2 Committee be designated as lead committee on the Advice and Assistance (Scotland) Amendment (No.2) Regulations 2003 (SSI 2003/421).—[*Patricia Ferguson.*]

**The Presiding Officer:** Two members, both of whom are from the Scottish Socialist Party, have indicated a wish to speak against one of the motions. I ask them to clarify who will speak on which motion. Mr Fox, which motion do you oppose?

**Colin Fox (Lothians) (SSP):** Motion S2M-387.

**The Presiding Officer:** Mr Sheridan, which motion do you oppose?

**Tommy Sheridan (Glasgow) (SSP):** I will defer, because I oppose the same motion.

**The Presiding Officer:** In that case, Mr Fox, you have three minutes in which to speak against motion S2M-387.

17:03

**Colin Fox (Lothians) (SSP):** I oppose motion S2M-387. The functions that will be transferred in

the draft Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc) (No 2) Order 2003 are the serious powers to open or read any piece of mail, e-mail, fax correspondence, computer file or other private correspondence of any private citizen in Scotland. Mail might be opened by security agencies throughout Europe, no matter how spurious their suspicions and without any safeguards for our civil liberties.

The powers that the Regulation of Investigatory Powers Act 2000 gave to the Home Secretary, David Blunkett, are straight out of "Nineteen Eighty-Four". George Orwell must be spinning in his grave. Every civil liberties group in Britain opposed the act, as does the Scottish Socialist Party. The thought that Mr Wallace rather than Mr Blunkett might open my mail is no comfort whatever. *[Interruption.]* Even the thought of Ms Jamieson doing so is no comfort. I suspect that after I have made this speech, my e-mails will receive more scrutiny than anybody else's.

The plans to extend the powers should have been the subject of at least a full debate in the Parliament, rather than treated in the way that they have been.

I oppose the statutory instrument to which motion S2M-387 refers.

17:05

**The Deputy Minister for Justice (Hugh Henry):** I am afraid that Colin Fox not only identified the relevant minister wrongly, but he got the principle wrong. The SSP is fully committed to immediate independence and not to the half-hearted approach of saying, "Maybe we will, maybe we won't," that John Swinney would take after a referendum and which Alex Neil opposes. If the Parliament accepted Colin Fox's suggestion, it would not prevent the introduction of the powers, but would leave them with United Kingdom ministers at Westminster. It is bizarre that a party of independence wants to prevent Scottish ministers from being given more powers and to leave more powers with Westminster, which would prevent the Scottish Parliament from scrutinising Scottish ministers.

The order had full cross-party support when it was considered in committee and it deserves the Parliament's full support. The order will devolve from Westminster to Scotland powers to tackle serious crime. It is in the interests of everyone in the Parliament to ensure that the war against crime is waged effectively. It is strange for any member to want to give powers back to Westminster, but the fact that a party of full independence wants to do that turns all its policies on their head. I ask members to reject Colin Fox's proposal.

**The Presiding Officer:** Mr Sheridan said that he would defer to Colin Fox, but if he opposes another group of motions, he must do so now. I understand that Mr Sheridan wants to oppose motions S2M-388 to S2M-399, which are on orders that deal with amnesic shellfish.

17:07

**Tommy Sheridan (Glasgow) (SSP):** As members know, amnesic shellfish poisoning is the talk of the steamie in Glasgow. We oppose the statutory instruments in principle for three reasons. The first reason is that many more issues in Scotland are important, such as Faslane, drug deaths and cancer clusters. We should be concerned about them, rather than amnesic shellfish poisoning. *[Interruption.]* If the members who are behaving like children are quiet for a moment, I will give the second reason. Nobody has ever fallen seriously ill as a result of amnesic shellfish poisoning, so the measures represent bureaucratic overkill.

The third reason for our opposition is that we should address the environmental causes of amnesic shellfish poisoning, rather than ignoring it and restricting the areas in which we fish. *[Interruption.]*

**The Presiding Officer:** Order. I ask for a little quiet, please.

**Tommy Sheridan:** Thanks very much, Presiding Officer—although that was a bit late.

I oppose the motions for those three reasons.

17:08

**The Deputy Minister for Health and Community Care (Mr Tom McCabe):** We have debated the principles behind such orders many times and sometimes it is difficult to think of a new way to say the same things. However, to be fair, Mr Sheridan has advanced a few new arguments.

Mr Sheridan said that we should spend more time on researching the causes of amnesic shellfish poisoning. Considerable research is being conducted to find the cause of the toxin that builds up in scallops. The plain facts are that we do not know how it builds up or why and how it dissipates, but both those developments happen. However, while they happen, it is important for public health that we take appropriate action.

One alternative would be not to test at an earlier stage, but to move to end-product testing. That would mean that if large amounts of scallops were harvested and we found later that they had high levels of the toxin—domoic acid—they would be no use for any other purpose and would have to be scrapped. In effect, we would have an exercise

that would be costly for the industry and to conservation and that would have an extremely detrimental effect on the reputation of a Scottish industry that is held in high world wide regard. We should not simply refuse to carry out this activity just for the sake of it; it is in the interests of public health. The Food Standards Agency is exploring various avenues of research and is engaged in a conversation with the UK to ensure that the response to the phenomenon is proportionate. That conversation will continue. As a result, I urge the chamber to resist Mr Sheridan's pleadings.

**The Presiding Officer:** I think that members will agree that we do not want 24 separate divisions at decision time, if that is at all possible. Mr Sheridan, are you taking a principled stand against all the motions that you have objected to? If so, I could probably put them to one vote.

**Tommy Sheridan:** Absolutely.

## Decision Time

17:11

**The Presiding Officer (Mr George Reid):**

There are 24 questions to be put as a result of today's business. The first question is, that amendment S2M-379.2, in the name of Fiona Hyslop, which seeks to amend motion S2M-379, in the name of Peter Peacock, on better behaviour, better learning, be agreed to.

*Amendment agreed to.*

**The Presiding Officer:** The next question is, that amendment S2M-379.1, in the name of Lord James Douglas-Hamilton, which seeks to amend motion S2M-379, in the name of Peter Peacock, on better behaviour, better learning, be agreed to. Are we agreed?

**Members:** No.

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

### FOR

Aitken, Bill (Glasgow) (Con)  
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)  
 Davidson, Mr David (North East Scotland) (Con)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Johnstone, Alex (North East Scotland) (Con)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 Milne, Mrs Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Swinburne, John (Central Scotland) (SSCUP)  
 Tosh, Murray (West of Scotland) (Con)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)

### AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baird, Shiona (North East Scotland) (Green)  
 Baker, Mr Richard (North East Scotland) (Lab)  
 Ballance, Chris (South of Scotland) (Green)  
 Ballard, Mark (Lothians) (Green)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Byrne, Ms Rosemary (South of Scotland) (SSP)  
 Canavan, Dennis (Falkirk West)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Fox, Colin (Lothians) (SSP)  
 Gillon, Karen (Clydesdale) (Lab)

Glen, Marlyn (North East Scotland) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Harper, Robin (Lothians) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, Mr John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Jackson, Gordon (Glasgow Govan) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Leckie, Carolyn (Central Scotland) (SSP)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lyon, George (Argyll and Bute) (LD)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 May, Christine (Central Fife) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)  
 McMahan, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)  
 Scott, Eleanor (Highlands and Islands) (Green)  
 Scott, Tavish (Shetland) (LD)  
 Sheridan, Tommy (Glasgow) (SSP)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Mrs Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Wallace, Mr Jim (Orkney) (LD)  
 Watson, Mike (Glasgow Cathcart) (Lab)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

#### ABSTENTIONS

Ewing, Mrs Margaret (Moray) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Gibson, Mr Rob (Highlands and Islands) (SNP)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 Maxwell, Mr Stewart (West of Scotland) (SNP)  
 Neil, Alex (Central Scotland) (SNP)

**The Presiding Officer:** The result of the division is: For 18, Against 75, Abstentions 8.

*Amendment disagreed to.*

**The Presiding Officer:** The next question is, that motion S2M-379, in the name of Peter Peacock, on better behaviour, better learning, as amended, be agreed to.

*Motion, as amended, agreed to.*

*Resolved,*

That the Parliament supports the need to continue a long-term comprehensive programme of action to promote better behaviour for better learning in our schools and notes the importance that teacher recruitment will have for this process.

**The Presiding Officer:** As I said earlier, the remaining decisions relate to the Parliamentary Bureau motions. If no member objects, I intend to put the question—

**Phil Gallie (South of Scotland) (Con):** On a point of order, Presiding Officer. I seek clarification on why we are not voting on motions S2M-388 and to S2M-389 on amnesic shellfish poisoning. [*Interruption.*]

**The Presiding Officer:** We shall be—

**Phil Gallie:** As I understand it, you have suggested that we vote on the motions en bloc instead of on the two of them individually. Will you please advise me of the position?

**The Presiding Officer:** I have received an objection from Mr Fox to a motion, which will be taken individually. As for the motions relating to amnesic shellfish poisoning, I have asked Mr Sheridan whether he agrees to them being taken in a group. As he has agreed to that, the objection is a principled one to all the motions. I will ask the Parliament's permission to take the divisions en bloc, which means that we will have one division instead of 12 separate ones, which will save us all a great deal of time.

The next question is, that motion S2M-383, in the name of Patricia Ferguson, on the designation of a lead committee, be agreed to.

*Motion agreed to.*

That the Parliament agrees that the Local Government and Transport Committee be designated lead committee for the Prostitution Tolerance Zones (Scotland) Bill and that either the Justice 1 or Justice 2 Committee (to be decided between the committees) be designated secondary committee.

**The Presiding Officer:** The next question is, that motion S2M-384, in the name of Patricia Ferguson, on membership of a committee, be agreed to.

*Motion agreed to.*

That the Parliament agrees that the seventh member of the Subordinate Legislation Committee be a member of the Scottish National Party and that Alasdair Morgan be appointed to that committee.

**The Presiding Officer:** The next question is, that motion S2M-385, in the name of Patricia Ferguson, on approval of a Scottish statutory instrument, be agreed to.

*Motion agreed to.*

That the Parliament agrees that the draft Mental Health (Care and Treatment) (Scotland) Act 2003 (Consequential Modification) Order 2003 be approved.

**The Presiding Officer:** The next question is, that motion S2M-386, in the name of Patricia Ferguson, on approval of an SSI, be agreed to.

*Motion agreed to.*

That the Parliament agrees that the draft Advice and Assistance (Assistance by Way of Representation) (Scotland) Amendment Regulations 2003 be approved.

**The Presiding Officer:** The next question is, that motion S2M-387, in the name of Patricia Ferguson, on approval of a Scottish statutory instrument, be agreed to. Are we agreed?

**Members:** No.

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

#### FOR

Aitken, Bill (Glasgow) (Con)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Mr Richard (North East Scotland) (Lab)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Canavan, Dennis (Falkirk West)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Davidson, Mr David (North East Scotland) (Con)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)  
 Finnie, Ross (West of Scotland) (LD)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gibson, Mr Rob (Highlands and Islands) (SNP)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marlyn (North East Scotland) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Gorrie, Donald (Central Scotland) (LD)  
 Harper, Robin (Lothians) (Green)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, Mr John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Jackson, Gordon (Glasgow Govan) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Johnstone, Alex (North East Scotland) (Con)

Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lyon, George (Argyll and Bute) (LD)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 Matheson, Michael (Central Scotland) (SNP)  
 Maxwell, Mr Stewart (West of Scotland) (SNP)  
 May, Christine (Central Fife) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 McMahan, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 Milne, Mrs Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Mundell, David (South of Scotland) (Con)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Neil, Alex (Central Scotland) (SNP)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)  
 Scott, John (Ayr) (Con)  
 Scott, Tavish (Shetland) (LD)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Mrs Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Tosh, Murray (West of Scotland) (Con)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)  
 Wallace, Mr Jim (Orkney) (LD)  
 Watson, Mike (Glasgow Cathcart) (Lab)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

#### AGAINST

Byrne, Ms Rosemary (South of Scotland) (SSP)  
 Fox, Colin (Lothians) (SSP)  
 Gallie, Phil (South of Scotland) (Con)  
 Leckie, Carolyn (Central Scotland) (SSP)  
 Sheridan, Tommy (Glasgow) (SSP)

#### ABSTENTIONS

Baird, Shiona (North East Scotland) (Green)  
 Ballance, Chris (South of Scotland) (Green)  
 Ballard, Mark (Lothians) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Scott, Eleanor (Highlands and Islands) (Green)  
 Swinburne, John (Central Scotland) (SSCUP)

**The Presiding Officer:** The result of the division is: For 90, Against 5, Abstentions 6.

*Motion agreed to.*

That the Parliament agrees that the draft Scotland Act

1998 (Transfer of Functions to the Scottish Ministers etc.) (No.2) Order 2003 be approved.

**The Presiding Officer:** As I said, if no member wishes to oppose motions S2M-388 to S2M-399 individually—individual members still have the right to do so—I intend to take those en bloc. If any member objects to my proposal to take them en bloc, they should say so now.

The next question is, that motions S2M-388 to S2M-399, in the name of Patricia Ferguson, on the approval of SSIs, be agreed to. Are we agreed?

**Members:** No.

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

#### FOR

Alexander, Ms Wendy (Paisley North) (Lab)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baird, Shiona (North East Scotland) (Green)  
 Baker, Mr Richard (North East Scotland) (Lab)  
 Ballance, Chris (South of Scotland) (Green)  
 Ballard, Mark (Lothians) (Green)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Canavan, Dennis (Falkirk West)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marilyn (North East Scotland) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Harper, Robin (Lothians) (Green)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, Mr John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Jackson, Gordon (Glasgow Govan) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lyon, George (Argyll and Bute) (LD)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 May, Christine (Central Fife) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)

Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)  
 Scott, Eleanor (Highlands and Islands) (Green)  
 Scott, Tavish (Shetland) (LD)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Mrs Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)  
 Wallace, Mr Jim (Orkney) (LD)  
 Watson, Mike (Glasgow Cathcart) (Lab)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

#### AGAINST

Byrne, Ms Rosemary (South of Scotland) (SSP)  
 Fox, Colin (Lothians) (SSP)  
 Leckie, Carolyn (Central Scotland) (SSP)  
 Sheridan, Tommy (Glasgow) (SSP)

#### ABSTENTIONS

Douglas-Hamilton, Lord James (Lothians) (Con)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Gallie, Phil (South of Scotland) (Con)  
 Gibson, Mr Rob (Highlands and Islands) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 Maxwell, Mr Stewart (West of Scotland) (SNP)  
 Neil, Alex (Central Scotland) (SNP)  
 Swinburne, John (Central Scotland) (SSCUP)

**The Presiding Officer:** The result of the division is: For 71, Against 4, Abstentions 12.

#### *Motions agreed to.*

That the Parliament agrees that the Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (West Coast) (No.3) (Scotland) Order 2003 (SSI 2003/365) be approved.

That the Parliament agrees that the Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (East Coast) (Scotland) Order 2003 (SSI 2003/366) be approved.

That the Parliament agrees that the Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (East Coast) (No.2) (Scotland) Order 2003 (SSI 2003/369) be approved.

That the Parliament agrees that the Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (West Coast) (No.5) (Scotland) Order 2003 (SSI 2003/381) be approved.

That the Parliament agrees that the Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (East Coast) (No.3) (Scotland) Order 2003 (SSI 2003/380) be approved.

That the Parliament agrees that the Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (Orkney) (No.2) (Scotland) Order 2003 (SSI 2003/321) be

approved.

That the Parliament agrees that the Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (West Coast) (No.4) (Scotland) Order 2003 (SSI 2003/374) be approved.

That the Parliament agrees that the Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (East Coast) (No.5) (Scotland) Order 2003 (SSI 2003/394) be approved.

That the Parliament agrees that the Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (West Coast) (No.6) (Scotland) Order 2003 (SSI 2003/392) be approved.

That the Parliament agrees that the Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (West Coast) (No.7) (Scotland) Order 2003 (SSI 2003/397) be approved.

That the Parliament agrees that the Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (West Coast) (No.8) (Scotland) Order 2003 (SSI 2003/402) be approved.

That the Parliament agrees that the Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (East Coast) (No.4) (Scotland) Order 2003 (SSI /2003/393) be approved.

**The Presiding Officer:** If no member objects, I will put the 21<sup>st</sup> to the 24<sup>th</sup> questions en bloc.

The question is, that motions S2M-400 to S2M-403, in the name of Patricia Ferguson, on the designation of lead committees, be agreed to.

*Motions agreed to.*

That the Parliament agrees that the Justice 1 Committee be designated as lead committee in consideration of the Gaming Act (Variation of Fees) (Scotland) Order 2003 (SSI 2003/403).

That the Parliament agrees that the Justice 1 Committee be designated as lead committee in consideration of the Children's Hearings (Provision of Information by Principal Reporter) (Prescribed Persons) (Scotland) Order 2003 (SSI 2003/424).

That the Parliament agrees that the Justice 2 Committee be designated as lead committee in consideration of the draft Title Conditions (Scotland) Act 2003 (Consequential Provisions) Order 2003.

That the Parliament agrees that the Justice 2 Committee be designated as lead committee on the Advice and Assistance (Scotland) Amendment (No.2) Regulations 2003 (SSI 2003/421).

## Nursery Nurses

**The Deputy Presiding Officer (Murray Tosh):**

The final item of business is a members' business debate on motion S2M-334, in the name of Carolyn Leckie, on nursery nurses. The debate will be concluded without any question being put.

*Motion debated,*

That the Parliament sends solidarity greetings and best wishes to all Scotland's nursery nurses and UNISON in advance of their gala day on Saturday 13 September 2003; supports their grading claim in full, and considers that COSLA should make an offer that meets the modest and legitimate demands of the nursery nurses.

17:18

**Carolyn Leckie (Central Scotland) (SSP):** I extend to the nursery nurses solidarity and admiration for their courage and determination. They have been pursuing their justifiable and modest grading claim for two years and have had to resort to strike action. I have a long history of involvement in the trade union movement and its struggles and I know how much courage it takes to pursue a dispute. Members might be aware that the nursery nurses lodged their claim in September 2001. In the 15 years before that, their duties increased continually and their role became increasingly complex, with their having more responsibilities around planning, assessment, production of reports on children and so on. In the same period, nursery places increased by 4 per cent, while staff numbers went down by 13 per cent.

During this afternoon's debate on education, many members talked about the importance of valuing children. If we are serious about valuing our children, we must value the people to whom we entrust their care, education and development.

Unison submitted a petition to the Public Petitions Committee on children in early-years education. Its evidence, and other evidence that was submitted by the United Nations Educational, Scientific and Cultural Organisation and other agencies, showed quite clearly that there is a desperate need to develop early-years education, to integrate it with education as a whole and to give nursery nurses a proper career structure as part of that process.

Children are society's biggest resource—I am sure that nobody in the chamber would disagree with that—but are we going to put our money where our mouth is in relation to the people who have a monumental impact on, and input into, our children's lives at the very earliest stage? My children remember vividly the experiences that were provided for them in their early lives by nursery nurses. Those experiences have stood them in great stead throughout their education.

I challenge anybody to suggest that the nursery nurses' claim is not just. Even if the claim were met in full as it stands, it would put nursery nurses on a minimum pay structure that paid £17,340 to £21,732—I emphasise that a proper career structure would be part of that—but with the abhorrent use of term-time pay, that would still place nursery nurses only on average earnings for women in Scotland, which are still £6,000 behind average earnings for men in Scotland.

There have been 15 years of undervaluing nursery nurses. Not only is that obviously just cause for an undervalued and hard-working professional work force to make a pay claim, but it is a clear example of traditionally female work's being regarded as being of less value than the work of men. That is an inequality that entrenches low pay and which is linked directly to shocking levels of child poverty, as has been established in various reports by trade union and labour organisations round the world, and in reports by the Equal Opportunities Commission.

Low pay is topical not only today—low pay is for life, as has been shown by research. Low pay is for life and the pay gap is for life if the situation is not reversed. Inequalities that are ignored today ensure a lifetime of inequitable low income, increased poverty and lower pensions. For women, lower pay means that their pension is a third lower in later life. Low pay leads to a legacy of perpetual poverty and inequality for future generations—the very children who will be entrusted to the care of nursery nurses.

The Executive has lauded its participation in the “Close the Gap” campaign, part of which aims to encourage public and private sector organisations to conduct employment and pay reviews that cover all aspects of women's employment. However, the Executive remains silent on nursery nurses and says that their pay is a matter for employers and the trade unions.

I refer to the latest offer, which proposes a move to increased use of term-time working, which is directly linked to unequal pay and would perpetuate it. What does the Executive have to say about the proposals that have been made by the Convention of Scottish Local Authorities? My previous life as a Unison branch secretary convinces me that the Executive's refusal to comment is evidence of breathtaking double standards and hypocrisy. The Executive is prepared to seek the glory for the removal of private contractors and for pay gains in the national health service—which have been achieved by trade union organisations, not by the Executive—but it refuses to offer support where it is clearly due. Its intervention may avoid the spectre of the nursery nurses' strike having to continue, with all the hardship that striking entails.

Is the Deputy Minister for Education and Young People saying that nursery nurses are worth only between £10,000 and £13,800 a year? Is that his view? Is it his view that MSPs' contributions to the future of our children are worth four times the contributions of nursery nurses, or does he agree that nursery nurses are worth their claim in full and that they are worth a proper career structure and the professional recognition to which they are entitled? Does he agree that COSLA should meet the claim in full, not just with recommendations, but with an offer that is guaranteed and which is binding on employers who have signed up to COSLA? Does he join me in hoping that nursery nurses feel valued and that their contribution to the future of our children and future generations will be acknowledged? Does he join me in hoping that we can see them off the picket lines, victorious in their dispute?

**The Deputy Presiding Officer:** Nine members wish to speak, so speeches should be no longer than four minutes in order that all members can contribute.

17:26

**Johann Lamont (Glasgow Pollok) (Lab):** I will try to be brief. I congratulate Carolyn Leckie on bringing this important debate to the chamber. Not long ago, I had direct daily contact with the pre-five sector; my children benefited from a pre-school education and were cared for by committed professionals. All societies should ensure that such central jobs are properly remunerated.

Recognition exists of the important work that is done by the Scottish Executive and local authorities in supporting early-years learning, and of the increased emphasis on child care. That prioritisation is the result of a long period of campaigning by women in the labour and trade union movements. Those women have clarified the importance of such a strategy in tackling poverty.

Increased emphasis on child care allows parents to manage their working lives better or to take up opportunities to work, but such emphasis is also important because of children's needs. It means that children are given a good start and it is especially important for children from vulnerable or chaotic families, which form a central part of our strategy for social inclusion. To make a difference at the pre-five stage can make a major difference to our children's later lives. I want to be absolutely clear that, even in a world of hard choices, such an issue must be a priority.

Sometimes, there are difficulties relating to intervening in individual pay disputes and there is an essential relationship between employers and trade union representatives, who must ultimately

sort out negotiations. However, broader issues are highlighted by the dispute. From discussions that I have had with nursery nurses, it is clear that pay levels and responsibility levels simply do not match. The jobs are predominantly done by women and we know that women predominate among the low paid. There is a structural problem relating to women's pay, which is highlighted by the work of women in early-years education and child care. We will not close the pay gap if we do not address that problem and give priority to the issue of women's work and low pay. Women's earnings will not increase by a trickle down from settlements that have been achieved in other sectors through trade union disputes.

There is a conundrum: are women's jobs low paid because women do them, or do women end up doing low-paid jobs because those jobs are low paid? There is a pressing case for an independent review of the pre-five education child care sector across the range—public sector, voluntary sector and private sector—because such work is so important to the life chances of children, especially the most vulnerable children, and because women's caring work does not seem to be properly valued.

I urge the minister to explore, in partnership with COSLA, the trade unions and the staff who are involved, how a review might be carried out. I am absolutely certain that any objective review that considers the jobs and responsibilities in the sector will lead to greater remuneration for those jobs. Of course, I urge the minister to recognise that the employers need to be given a commitment in respect of resources that would follow the conclusions of such a review.

I cannot underline too strongly that the matter is of grave importance, although it can be sorted. The sector is so central and so diverse that we must address low-pay issues; those issues do not exist simply by accident, but are in the structures. I hope that the minister will give us a commitment in that respect today.

17:29

**Fiona Hyslop (Lothians) (SNP):** I apologise in advance to the Presiding Officer and to the minister because I may have to leave to attend a public consultation meeting in Linlithgow tonight.

I, too, congratulate Carolyn Leckie on bringing this debate to the chamber. There is a pay dispute and the issue is obviously topical. We must recognise that COSLA has a lead role in that dispute. However, Parliament has a responsibility to address the matter on two counts: first, because of our commitment to children, child care and early-years education; and secondly—this is an issue that Johann Lamont brought to the debate—

because of gender inequality. If Parliament, which has so many women MSPs, does nothing to address issues around low pay and part-time working, we should look ourselves in the eye and ask why we are here. Many of the women who have been elected to Parliament have come here to address equality for women and women's low pay.

When we have debates on the economy and what the country needs—such as those in which I have participated recently—in which the same conclusion is reached as that which the First Minister reached this morning when he talked on the radio about the need to bring more workers into Scotland, we must ask ourselves why that is necessary. We know that we have a falling population: that is of real concern. Unless we arrest or change that trend, we must ensure that the people who are here now—the young people who are our future—get the best start in life.

We have to realise that the Executive's proposals for child care strategies and early-years intervention have to be delivered by somebody. The Executive is placing increasing demands on nursery nurses; we have a responsibility to reflect that. We must support young people in their first steps. Some educational materials show that the interventions and actions of nursery nurses in the early years can make a considerable contribution to identifying future support needs. We must acknowledge that and the Parliament must support their work. That is one of the ways forward.

It is imperative that we also consider the gender issues. If we want to tackle poverty and the problems of a falling population, we must encourage women to take up employment or better-placed employment. Women have often to work part time because that is the only way for them to work around their child care needs and to find employment near their children's schools or nurseries. The Executive cannot expect its proposal for nursery places for three and four-year-olds—which I welcome—to work unless the proposal is supported by the necessary resources.

The issue is not just about resolving the current pay dispute: it goes longer and deeper. However, if we value children and those who care for our children, that will be a big step in the progress that started many years ago with women demanding rights that are equal to those of men. In valuing the work that nursery nurses do, we will take steps to ensure that we build the type of country that we want, in which equality and social justice prevail. If valuing and celebrating children matters, we must support those who provide so much for them in their early years.

17:33

**Lord James Douglas-Hamilton (Lothians) (Con):** I congratulate Carolyn Leckie on her success in raising this important matter for debate. I hold in my hand a copy of the letter from the president of COSLA, Councillor Pat Watters, to Brian Monteith. Councillor Watters says that

“local negotiations can bring about satisfactory settlements based on our guidance. Indeed some local authorities have already settled the dispute.”

Like COSLA, in this case, we believe that negotiations should be carried out in education authorities, leading to satisfactory settlements. We believe that a review of nursery nurses' pay was desperately needed because of the increased duties and tasks that they have taken on over the years. We argue for improved guidelines on pay and conditions, because the current wage levels for nursery nurses are unacceptable. We want the guidelines to prescribe a structured career path.

COSLA has recently reviewed the findings of the working group that was set up to review the pay of nursery nurses and has offered new guidelines for pay and conditions. We are in favour of the proposal that there be a three-tier career structure with benchmark grades for each post, which would result in pay that reflects fairly the experience of, and the work that is done by, nursery nurses.

We also believe that, in addition to the guidelines, the final pay and conditions should be set by the local authority, which would better reflect local circumstances. For example, in an area in which there was a shortage of nursery nurses, the local authority could go well beyond the guidelines in order to attract nursery nurses to fill vacant posts. If pay was set locally, pay and conditions would be more responsive to each nursery nurse.

I believe firmly that nursery education is not acknowledged for the fundamental work that it does in teaching children in their younger years. That is something that Carolyn Leckie touched on. All too often it is considered that spending a pound on primary or secondary education is better than spending a pound at nursery level. We simply must change that underlying attitude to nursery education so that genuine recognition, and a salary that reflects that, can and will come about.

It is our purpose to drive up standards at all levels of education. That can be achieved only by having on board the best teaching staff, who feel that they are given the recognition and salary that they deserve. That must be addressed urgently at nursery level. I look forward to the minister's words in a few minutes.

17:35

**Ms Rosemary Byrne (South of Scotland) (SSP):** It is interesting that we had a debate earlier on the document “Better Behaviour—Better Learning”, in which members talked about how important early intervention is for our young people. However, professionals who are working in nurseries with children of three and four—a crucial stage—are not being properly paid, do not have a proper career structure and their professional training needs to be reviewed. The nursery nurses are desperately keen to be back in their jobs; they do not want to be out on strike, but they have been forced to take industrial action because for years they have not been listened to.

As Carolyn Leckie asked, how important to us is our young people's future? Do we want to acknowledge the professionalism and proper education at nurseries by providing proper training and professional qualifications, with decent pay and career structures built in, or will we have a system in which nursery nurses are second class and are not part of the real education system? That is the case now.

We must remember that many of the nursery nurses about whom we are talking work in our primary schools alongside teachers; those teachers have professional structures and pay, which were improved recently by the McCrone settlement. Nursery nurses do crucial work in primary schools.

We must also consider what we expect from our nursery nurses today. We expect them to assess and plan for the individual needs of the young people with whom they work. We expect them to be involved in early identification of any special educational needs that young people might have. All of that involves a high level of professionalism, but nursery nurses are second class in our education system.

We also expect nursery nurses to work with parents, which brings me back to where I started. We talk about better behaviour and better learning and we want improvement in the behaviour of young people in our schools. The nursery stage is the crucial stage at which to identify where intervention is needed. We should have people working with parents at that stage and we should treat and pay those people as professionals.

We should put as much pressure on COSLA as possible to get the dispute ended and to give proper satisfaction to the nursery nurses.

17:38

**Elaine Smith (Coatbridge and Chryston) (Lab):** I join other members in thanking Carolyn Leckie for bringing the issue to Parliament's

attention this evening. I was pleased and encouraged in July this year when, in an interview in the *Sunday Herald*, the Minister for Communities, Ms Margaret Curran, recommitted herself to ensuring that feminist issues and ideals would be at the core of the Scottish Executive's decision making and policy making during the second session of Parliament. The minister said:

"Scottish feminism is still alive and well and in the Cabinet."

She went on to say:

"I think in this new parliament we need to reinforce our commitment by actually saying that women's rights, women's equality should be on our agenda. It's something that we really need to focus on now and make a key priority."

That kind of pledge follows previous good work on equality initiatives, such as the "Close the Gap" initiative, which was referred to earlier and which was launched in March 2001. That initiative recently received a further £30,000 from the social justice budget for the current year. Therefore, I want to record my recognition of the Executive's clear commitment to the feminist agenda and to closing the pay gap.

However, if there is anything to be learned from the situation that has arisen with regard to nursery nurses, it is that we have a considerable amount to do if we are to create a true culture of equality in the world of employment.

A number of questions can be put. Is it acceptable that the job of nursery nurse has not been reviewed for 15 years? Is it acceptable that a nursery nurse with two years' training and more than 10 years' experience can expect to earn, at best, no more than £13,800 a year? Is it acceptable that the increase in professional responsibilities and in the work load of nursery nurses in recent years has not been reflected in their remuneration?

Those are legitimate questions that need to be answered; I hope that the minister will address them. What is of more concern, however, is that those questions need to be posed at all. A slightly latent—if that is the right word—but equally significant question should be: why has our society allowed the job of the nursery nurse, which ensures the delivery of a valuable pre-five curriculum to our children, to be overlooked and undervalued for as long as it has been?

As Johann Lamont and Carolyn Leckie did, I point out that the issue is not only about a pay dispute between employer and employee; it is about the wider issue of gender discrimination in pay. I hope that the minister will be able to address that wider issue. I do not think that it is a coincidence that we find low pay to be the experience of a profession whose membership,

according to Unison, comprises 99.5 per cent women.

In response to recent increases in the gender pay gap, Julie Mellor, the chair of the Equal Opportunities Commission, said:

"We, as a society, need to reassess the value we place on jobs traditionally done by women. How on earth can we justify, for example, the low pay received by people caring for children and older people - surely one of the most valuable roles in society?"

Parliament should take that advice on board.

We need to effect a change in cultural attitudes. That will take time, of course, but supporting women who work as nursery nurses, and those who work in similar professions, and giving them the professional recognition that they deserve is a way forward. It is something that we should do.

Nursery nurses make an extremely valuable contribution to our society. The early-years education of our children has become increasingly significant in recent years and is set to become even more important. The professional responsibility of nursery nurses has undoubtedly increased in accordance with that trend and it is time that society, Government and employers recognised that and rewarded nursery nurses accordingly.

17:42

**Donald Gorrie (Central Scotland) (LD):** I congratulate Carolyn Leckie on her motion and the members who have spoken on their speeches. Members' business debates are often the best debates that the Scottish Parliament has. On this occasion, despite strong feelings on the issue, no one has been over the top and everyone has made constructive comments from various angles.

The issue of nursery education is dear to the heart of the Liberal Democrats. Our manifesto has contained words about the subject for many years and we are pleased that the coalition Government has managed to extend considerably the provision of nursery education. As other members have said, nursery education is extremely important.

I agree with Lord James Douglas-Hamilton that, in the short term, it might be a mistake for the Parliament or the Scottish Executive to get involved in the dispute. As I understand the situation, the dispute is gradually being resolved and some councils have settled with their work force. Local democracy should be allowed to prevail. It might well be the case that COSLA has not negotiated intelligently on this matter—if one is not present at a negotiation, it is always hard to tell who is at fault—but the councils should be allowed to come to a settlement in the short term.

I support Johann Lamont's argument—other members made similar remarks—that there should be a McCrone-style study of the overall pay structure of the various professions that deal with young children. Those professions are important but undervalued.

The issue of women not getting proper recognition is important. I was well brought up, having had a granny and three aunts who were active suffragettes. I am aware that their campaign still goes on. Women have the vote, but they do not have a fair deal. The Parliament will make a big contribution to Scottish life if we can develop the idea of women getting a fair deal. I hope that Johann Lamont, as convener of the Communities Committee, will push the issue. We could press the Executive to take a long-term, overall look at the subject.

17:45

**Margaret Jamieson (Kilmarnock and Loudoun) (Lab):** I declare an interest as a member of Unison and the mother of a registered nursery nurse.

The motion in Carolyn Leckie's name congratulates Unison nursery nurses on their recent fun day, which was held in Glasgow and highlighted their grading claim, and expresses our support for that claim. I was one of those who were delighted to attend the fun day and participate as a speaker. That was the second time that I had taken part to demonstrate publicly my support for Unison nursery nurses and the work that they undertake every day.

The case of nursery nurses is not new to me. In my employment before I was elected to the Parliament, I represented nursery nurses and was involved in their initial claim for regrading following local government reorganisation. I am also aware of the efforts to reach an agreement prior to the abolition of the old regional councils. Following local government reorganisation, COSLA made many promises that nursery nurses would be regraded with the introduction of the new job evaluation scheme. That has still not been realised, despite the latest claim being lodged in 2001.

The valuable work of nursery nurses is still not acknowledged in monetary terms or in a career structure that reflects the changed world of pre-five education. COSLA's recent offer does nothing to ensure a Scotland-wide career structure for the profession or a Scotland-wide pay agreement for nursery nurses based on factual job descriptions. Today, our student nursery nurses can spend four years in training to obtain a national certificate, a higher national certificate and a bachelor of arts in early-years childhood studies. Many who work in

the profession have undertaken that further education at their own expense, but COSLA failed to recognise that in the recent offer.

No guarantee was given that councils throughout Scotland would implement the technical working group's report. The trade unions rejected—rightly, in my view—the offer of 32 interpretations throughout Scotland. It is interesting to note that the president of COSLA, Pat Watters, was the first to reach a local deal with trade unions in South Lanarkshire. That local deal mirrored the technical working group's recommendation, but also included a £600 golden handshake for those in post at 1 April 2002. It also included a clause saying that uprating would take place if a higher Scottish agreement was reached. Such breakaway deals demonstrate to me that COSLA's collective bargaining power is under threat, especially when the first authority to break away is the president's authority.

The Parliament has demonstrated its commitment to national standards for child care with the requirement in the Regulation of Care (Scotland) Act 2001 for the combined inspection of establishments by Her Majesty's Inspectorate of Education and the Scottish Commission for the Regulation of Care. The act recognises the fact that in our nursery nurses we have a professional work force, in that it provides that they will be regulated by the Scottish Social Services Council. A requirement is also placed on nursery nurses to demonstrate a level of training and continuing professional development to allow registration while working in the sector.

The Scottish Executive has made its commitment by giving local authorities £835 million for child care from 2001 to 2006. We must recognise the fact that nursery nurses deliver quality pre-five education. We must also acknowledge that teachers are no longer required to be in every nursery establishment—nursery nurses have the qualifications to allow that.

We now need the minister to ensure that there is one Scottish grade, one Scottish career structure and one Scottish salary scale for those who deliver a valued start in education to our children, so that they may achieve their full potential. I ask the minister to do all in his power to ensure that COSLA resolves this dispute by entering into meaningful negotiations with the trade unions that represent early-years educators in Scotland.

17:50

**Mr Adam Ingram (South of Scotland) (SNP):** I will be brief. Tonight's debate has been very good and most members have argued the case for nursery nurses extremely well.

I congratulate Carolyn Leckie on bringing the debate to Parliament. I know that she has pushed

the issue of nursery nurses in the Parliament several times. I might be wrong, but I recall that her first contribution was a question to the First Minister. Typically, Jack McConnell passed the buck on dealing with the problem of remuneration for nursery nurses back to local authorities.

I have given my unconditional support to the nursery nurses' case, which is incontrovertible. Rightly, the Executive has put together an investment programme for early-years education. If delivered, that will be of great benefit to the future of this country. However, what kind of message are we sending when we deny the work force that is essential to delivering the programme a decent salary?

Carolyn Leckie has already indicated that the number of pre-school places has increased by about 4 per cent, but the number of staff delivering the service has decreased by 13 per cent. A complete review of the nursery nurses' position is well overdue—I believe that the previous review took place something like 15 years ago.

Now is the time for ministers to intervene. COSLA will not deliver. It cannot force councils to settle at a level that is acceptable to the nursery nurses. Local deals are about picking off people—the classic tactic of divide and rule. We should address the needs of this work force now. It is the minister's responsibility to deliver on the Executive's stated aims for early-years education and to support a work force that has been discriminated against.

17:53

**Tommy Sheridan (Glasgow) (SSP):** I rise to support Carolyn Leckie's motion in support of the nursery nurses' justified and modest pay and regrading claim.

Johann Lamont and I often cross swords politically, but tonight she made an excellent speech. In particular, she was right to say that this case must be a priority. I ask Donald Gorrie to reflect on his suggestion that this might not be the time to intervene. Let us get the matter into perspective. It is 15 years since there was a review of the situation. An initial regrading claim was submitted in 1996 and a new claim was submitted in September 2001. It is now September 2003 and the many members who have been on the picket lines and marched with the nursery nurses will know that they feel totally deflated and undervalued. They think that we are not listening and that we do not care.

At this stage of the dispute, the Executive must become more proactive and must put pressure on COSLA. In a trade union-employer relationship, it is right that the employer should be the initial point of contact, but we are way beyond that stage. The

nursery nurses feel that there is nothing left for them to do but to withdraw their labour. All the members who have been on the picket lines and who have spoken to the nursery nurses will know that they do not want to be on strike. They feel that they are letting down the children and the parents, but what options do they have? The only option they have—and this is the only way that they think they will be listened to—is to withdraw their labour.

I remember being in George Square and listening to Margaret Jamieson speak at one of the early demonstrations, which I think must have been way back in 2001. At that stage, many people said, "The only way we're going to get round this is to take strike action." Others said, "No, no, just get in the claim and discuss it," and that won the day. Two years later, the nursery nurses have got nowhere, so they have had to take strike action, because that is all they have left.

We are letting down those essential child care workers if we do not make the case and ask the Executive to be more proactive and intervene. We are not talking about a king's ransom; we are talking only about a semi-decent wage for goodness' sake—£17,000 to £21,000. We are talking about essential workers who are delivering an essential aspect of the modern child care programme in Scotland. If it is essential, let us pay people a decent wage to deliver it. That is what we are asking for.

Johann Lamont said that this is not just a low-pay issue; it is also a gender issue. Let us be clear about that—it is about low-paid and predominantly women workers. We have to take up the cudgels and take up their case.

I appeal to the minister: let us not have a soft-shoe shuffle and let us not just pass the buck. I hope that the minister will say that he wants a meeting with COSLA and is pulling COSLA in. We do not want local deals. For goodness' sake, consider the mess in social work just now with local deals. All sorts of poaching deals mean that Glasgow cannot get enough social workers because South Lanarkshire Council and North Lanarkshire Council are offering better pay. Do we want a crisis in nursery nurse staffing, because of all the different deals in the 32 local authorities?

Let us have national pay and national grading for national standards. Surely that is what we should deliver for our children and for our child care workers. I hope that the minister will give us a strong response that is about him pulling in COSLA and asking it to get together with the unions to deliver the deal.

17:57

**Karen Gillon (Clydesdale) (Lab):** I declare my interest as a member of Unison, and my forthcoming interest, as I am the mother of two children under three.

I am proud of Labour's achievements in nursery education since 1997. It is vital that those achievements are recognised, because if we are to secure the long-term educational improvement of our children and take children out of poverty, we must intervene early.

By securing a nursery place and developing assessment for all three and four-year-olds, as a Parliament we have placed increased demands on nursery nurses. We must recognise that there is indeed a role for the Parliament and the Executive, because we have fundamentally changed the role of nursery nurses. That is why the Executive needs to get everyone round the table and to ensure that there is a full and independent review of the pay structure and responsibilities of nursery nurses.

In the previous parliamentary session, the Executive pulled together the parties to secure the McCrone deal for teaching staff. Frankly, if we are saying that COSLA cannot deliver a national agreement, the Executive must intervene. I do not accept that local agreements are the right way forward. I disagree slightly with Tommy Sheridan's analysis. Because of the nature of nursery nurse work, I do not think that people will cross borders. Women cannot necessarily do that, and the role of nursery nurses means that they might not have that flexibility.

I say to the minister that if a review was good enough for teachers—and the Executive put in the funding to back up that review and make it possible—I am sure that it is good enough for nursery nurses. Nursery nurses are vital members of the education team—they are not just child care staff or childminders. If it is important for us to fund a nursery place for three and four-year-olds, it is important for us to fund the pay of the people who educate those three and four-year-olds, because educate is what they do.

The minister needs to play a role and to get people working together. We need to ensure that we are not in the position four years from now, or even one year from now, where nursery nurses come back to the table saying that they are putting in a pay claim. That all goes back to national pay bargaining, and to having a system in which there is a clear and identifiable pay structure for nursery nurses that is based on the new responsibilities that this Parliament has placed on them.

18:00

**The Deputy Minister for Education and Young People (Euan Robson):** I add my congratulations to those already offered to Carolyn Leckie on securing the debate, which has been good. The sincerity of everybody's views is something that I will take away with me.

I open by saying that nursery nurses play a vital role in the care and education of our young children. That is self-evident. As I have heard, that view is shared by all members. I would like to thank everyone for their contributions.

The Executive values the work that nursery nurses carry out. We are conscious that the positive outcomes that we seek for our children are associated with high-quality services that are provided by a work force of the highest quality. I am grateful to Adam Ingram for his recognition of the investment in early-years education. Over the next few years, we aim to increase the number of qualified workers and to widen opportunities for training and career progression. To help to achieve that, we have allocated a total of £15.6 million between 2003 and 2006 specifically to assist workers to gain accredited qualifications. Therefore, we are addressing the point that Margaret Jamieson made in her effective speech. The allocation is set against the background of the forthcoming requirement for the early-years and child care work force to register with the Scottish Social Services Council, which Margaret Jamieson mentioned, as part of our improved regulatory regime for such services.

I heard what Johann Lamont and Elaine Smith said and I share their concerns about low pay for women. The Executive is fully aware of the existing discrepancies and we appreciate the anxieties that they create. As a commitment, I am prepared to explore with Johann Lamont the idea that she put forward. I will perhaps talk to her about it afterwards.

The motion asks that we should support the nursery nurses' grading claim and says that our position should be to say that COSLA should make an offer that meets their demands. Although I accept the sincerity of members' views, they will have heard what the First Minister and the Minister for Education and Young People have said. I do not believe that we should become directly involved in unresolved industrial disputes between employers and employees. I will develop that argument in a minute. We have not intervened in the negotiations and we do not intend to intervene. They must—I repeat, must—remain a matter for the employers and the employees' unions.

It is regrettable that the dispute has gone on this long. Members have spoken eloquently about the length of time during which regrading has been an

issue. High-quality and accessible early-years provision is essential in providing our children with the best possible start in life. It can also facilitate the return to employment of many parents. Therefore, in our view, it is essential that the unions and the local authorities continue to negotiate and that they reach a settlement quickly—a settlement that is fair to the nursery nurses and that is financially sustainable for the local authorities.

I want to come to an important point. My understanding is that, as part of the single-status agreement—which the local authorities and the unions signed up to—matters of pay are now a matter for local determination. What has happened during this dispute is that COSLA has represented the employers in producing a proposed benchmark of job description, grading and career structure that can be used by local authorities in local negotiations. If one likes, COSLA took over the role of facilitator. I come back to the point that, under the single-status agreement—which, I repeat, the local authorities and the unions signed up to—the matter is one for local determination. Therefore, we cannot intervene.

As members will know, the most recent proposal, which was presented to the unions on 12 September, was rejected and further strike action took place across the country. Although it might seem that national negotiations have broken down or have reached an impasse, I understand that each local authority is beginning to enter into discussions with trade unions on local settlements, as per the single-status agreement. I am interested to learn that that is not the case; I will take that point away with me.

I understand that the local negotiations have led to an agreement in South Lanarkshire—I listened to what was said about that—and that other negotiations might take place in due course. I cannot intrude on that sensitive situation.

**Karen Gillon:** I can understand how, in other professions, there are differences between people who work in one area and those who work in another, but will the minister clarify how being a nursery nurse in his constituency is different from being a nursery nurse in mine?

**Euan Robson:** The member makes an important point, but I return to the fact that the single-status agreement was decided on by both the employers and the employees' representatives. I cannot escape from that situation. Whatever validity the member's point has, we are stuck with the present situation.

**Carolyn Leckie:** The minister refers to single status and the job evaluation scheme, but he might have read the Unison briefing, which states:

“The job evaluation scheme has been constantly put off”—

by the employers—

“since it was originally agreed.”

Therefore, it does not function. The employers have raised the scheme simply as an excuse not to settle the nursery nurses dispute. The minister should not hide behind that.

**Euan Robson:** I assure the member that I am not hiding behind anything; I hear what she says.

Some progress has been made, and the fact that the dispute has highlighted certain issues has been helpful. However, although many members will not like it, I must repeat that the Executive has no reason to intervene and has no intention of doing so.

**Bristow Muldoon (Livingston) (Lab):** I ask the minister to reflect on the fact that the Scottish Executive became involved in discussions on the McCrone settlement, to which Margaret Jamieson referred. In the course of last year's fire dispute, United Kingdom Government ministers met local government representatives and representatives of the Fire Brigades Union. I ask the minister to reflect on those cases and to reconsider his position.

**Euan Robson:** I will reflect on what the member has said; indeed, we will consider very carefully what members have said, as we will do in relation to the debate on better behaviour.

To facilitate progress towards settlements in all local authority areas, I understand that COSLA will continue to act as a point of contact for authorities that seek up-to-date information on what has been proposed or agreed. As I understand it, that is a clearing-house arrangement. The Executive will continue to encourage negotiations between local authorities and unions, because we want to see a quick end to the dispute. I am sure that all members share that wish.

*Meeting closed at 18:08.*

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