

MEETING OF THE PARLIAMENT

Thursday 1 April 2004

Session 2

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Scottish Parliament

Thursday 1 April 2004

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

Point of Order

Bruce Crawford (Mid Scotland and Fife) (SNP): On a point of order, Presiding Officer. According to media reports this morning, the European Commission will announce today the long-awaited outcome of the fishing negotiations. Will you give me guidance on what procedure would require to be followed to allow the Executive to make a statement before the recess? Have you received a request from the Executive to make such a statement today?

The Deputy Presiding Officer (Murray Tosh): All I can tell the member at this stage is that I have received no such request. If one were to be made in the course of the day, it would be handled in the usual way.

Planning

The Deputy Presiding Officer (Murray Tosh):

The first item of business is a statement by Margaret Curran on modernising and reforming Scotland's planning system. The minister will take questions at the end of her statement, so there should be no interventions.

09:31

The Minister for Communities (Ms Margaret Curran): I am pleased to have the opportunity to speak to Parliament about our plans for modernising the planning system. Today, I am publishing two consultation papers—"Making Development Plans Deliver" and "Rights of Appeal in Planning". I am also publishing our first national planning framework for Scotland. Those are major elements in our drive to modernise the planning system and they will ensure that the system is fit for the needs of the new century. This morning, I will explain why planning remains important; set out why reform is necessary; outline the content of the three documents; and describe the next steps in our programme.

Why does planning matter so much? We all know that people and places are important and it is the planning system that brings people and places together. Planning policies and decisions make a significant impact on our economy, our environment and our communities: get them right and we make real progress on economic competitiveness, environmental protection and social justice; get them wrong and we fail to deliver on our commitment to sustainable development. We must enable things to happen where they should and prevent them from happening where they should not. That is the challenge that I am determined we will meet.

The planning system is often criticised. Sometimes the criticism is unjust, but sometimes it is justified. I believe that there are real grounds for concern about delays in decision making and failures to keep plans up to date. We know and understand that the planning system in its foundation and operation is crucial to encouraging economic growth. However, we need to be clear that different stakeholders want different things from the planning system. For example, community and environmental groups generally expect councils to take decisions in line with the development plan, whereas business and property interests often argue that councils are too inflexible.

The consultation that I am publishing today attempts to strike a balance between those two positions. It supports and takes forward the partnership agreement commitment to

"improve the planning system to strengthen the involvement of communities, speed up decisions, reflect local views better, and allow quicker investment decisions".

That commitment is, of course, set against the background of the Executive's commitments to grow the economy and to secure environmental justice.

Modernising the development planning system to produce up-to-date, relevant and accessible plans is a fundamental reform. The conclusions of the "Review of Strategic Planning", which was published in 2002, set out our decisions on the shape of the development planning system. One of the outcomes was that the current practice of having two tiers of development plans throughout Scotland should be discontinued. We agreed that there would be city-region plans for only the four largest cities—Aberdeen, Dundee, Edinburgh and Glasgow—where land use and infrastructure issues transcend local authority boundaries.

Our new consultation paper, "Making Development Plans Deliver", sets out detailed proposals on city-region plans and ways in which local planning can become more effective in commanding support for and delivering development and regeneration. Discussions with local authorities and other key stakeholders have helped to shape the proposals, as has pilot work with Highland Council and South Lanarkshire Council.

The consultation paper notes the often poor record of local authorities in keeping their plans up to date and achieving measurable outcomes. We propose a range of options to ensure that development plans are kept up to date, including a statutory requirement to review plans at least every five years.

Our proposals to modernise development planning centre around four key themes. The first is consultation. Full and effective engagement with communities, business interests and key public bodies is critical and must be more effectively targeted. Among the options are a statutory duty for key public agencies to engage in the development plan process and the introduction of neighbour notification for site-specific proposals in local development plans.

The second theme is content. We want shorter plans that are focused on genuine planning and development issues, with greater consistency throughout Scotland in the style of plans. The third theme is management. Staff and resources must be managed effectively from the outset of plan preparation. That requires political commitment, effective leadership and a project management approach. The final theme is delivery. Development plans must focus more on outcomes, with action plans setting out the steps required to deliver the plans' aims.

Some proposals will require legislative change, but, for the most part, modernising the development planning system need not necessarily require changes to statutory procedures—it is about better management of the process. Our aim is to change the culture of development planning to one that is managed effectively from the outset, where there is greater consensus on the nature and scale of change and where proper, rigorous community consultation and delivery are key. Statutory development plans matter. They can and must make a difference. It is essential that all key stakeholders play their part.

We all know that the subject of rights of appeal in planning is controversial. Applicants have a right of appeal to the Scottish ministers against a refusal of planning permission or against the conditions attached to a consent. "Third party" is the term that is generally applied to anyone other than an applicant or planning authority. Third parties have many opportunities to participate in planning policy and decision making, but they do not have a right of appeal if they disagree with a local authority's decision. Some people see that as an imbalance in the planning system. Others consider that members of the public have plenty of opportunities to influence planning and that extending the right to appeal might cause significant and unnecessary delay.

"Your place, your plan: A White Paper on Public Involvement in Planning", which was published a year ago, set out our proposals to strengthen public involvement in the planning system. It included a commitment to consult on third-party planning appeals. The paper recognised that the matter is complex and has potentially significant implications for the planning system. The partnership agreement further defined the subject of the consultation. It stated:

"We will consult on new rights of appeal in planning cases where the local authority involved has an interest, where the application is contrary to the local plan, when planning officers have recommended rejection or where an Environmental Impact Assessment is needed."

I emphasise that the consultation that we are launching today takes a neutral standpoint. "Rights of Appeal in Planning" seeks views on whether we should introduce new rights of appeal. If we do not, are there other ways in which to address the concerns that lie behind demands for third-party appeals? If we do, how might we best design the appeal system?

One of our options is to make no change to the right of appeal. We do not want imbalance in the planning system, but it is in no one's interest to have a planning system that does not support growth or provide necessary development such as housing. We know that we shall have to make a hard decision and we shall not shirk that responsibility.

The consultation paper on rights of appeal sets out four possible ways forward, but it does not recommend a specific proposal and we will listen to the views that we receive. The first model that we are consulting on involves a right of appeal for third parties in the circumstances set out in the partnership agreement. Secondly, at the other end of the spectrum, we might not introduce further rights of appeal. However, that would not mean that there would be no change in the planning system; we would still intend to advance our existing programme of reform to tackle the issues that underlie the current calls for third-party appeal. A third possibility is to improve procedures in local authorities for dealing with controversial planning applications without altering the right of appeal. The final model sets out a new system for planning appeals that differs from the current process and involves some related changes to the planning system.

I know and understand that there are passionately held views both for and against a third-party right of appeal. We worked with a stakeholder group that was drawn from a wide range of interests to ensure that we explored those points of view. Some people believe that the issue of a third-party right of appeal is straightforward and that, quite simply, there should be such a right or that, quite simply, there should not. The issues and potential implications are aired in the paper.

The debate is important and it is essential that stakeholders engage in the process. The outcome of the consultation is far from being a foregone conclusion. We want people to respond to us, to inform our final decision; we want them to ensure that the decision that we take is informed and consistent and meets the needs of Scotland in terms of economic growth and social justice.

The third and equally important publication that we are issuing today is the "National Planning Framework for Scotland". We announced the decision to draw up the framework as one of our conclusions on the review of strategic planning. There has been extensive stakeholder engagement in drawing up the framework. We held a range of seminars across Scotland and I am pleased that there was strong support for tackling issues such as economic development, transport, water and drainage, affordable housing and waste.

The national planning framework is a key element in our package of planning reforms and it represents an important first step in addressing the challenges of Scotland's long-term development. The framework examines how Scotland is likely to change over the next 15 to 20 years, analyses the underlying trends in Scotland's development and the key drivers of

change, and links with other key Executive policies on economic development and regeneration. The framework will help to guide the spatial development of Scotland and will provide a context for development plans and planning decisions. We plan to update it every four years.

The framework considers key points, such as the challenges and opportunities of Scotland's location and the importance of the Edinburgh-Glasgow relationship. It identifies the east coast as a key strategic corridor and it emphasises Ayrshire—where Prestwick airport and Hunterston play such an important role—and, of course, the key role that rural Scotland plays in our development. The framework is a planning document and will feed into the strategic projects review on transport and into decisions on area regeneration and priorities for expenditure on water and drainage.

In conclusion, the consultation papers, "Making Development Plans Deliver" and "Rights of Appeal in Planning", will be out for consultation during the next four months. The consultation will be a very active process. My deputy Mary Mulligan, officials and I will take the debate to our stakeholders in business and property, in environmental and community groups and in professional organisations. The Deputy First Minister will also continue his dialogue with business and planning will be on his agenda.

It is important to remember that other issues are being taken forward in relation to the planning reform agenda, including e-planning, design and the modernisation of our planning inquiry system. The Barker review of housing supply, our review of affordable housing and the implications of those reviews for the future of housing in Scotland are factors that we will consider in our reform of the planning system.

We are undertaking a large programme of important work and, to assist stakeholders, I will bring our final proposals together in a single document, which will identify elements that require primary legislation, elements that require secondary legislation and elements that can be dealt with through guidance.

The planning system deals with wide and complex issues, but we are determined that it should be modernised to meet the challenges of 21st century Scotland and to balance the needs of community and business. Today represents another stage in our reform of Scotland's planning system.

The Deputy Presiding Officer: The minister will now take questions on her statement. I have a long—and lengthening—list of names on my screen, so I ask members to be very tight indeed with their questions.

Shona Robison (Dundee East) (SNP): I thank the minister for the advance copy of her statement. I know that the Executive is keen on producing documents and, in particular, on consultations, but it has surpassed itself today, with a bumper issue of three documents and two consultations in one go.

I will focus my questions on affordable housing, which is an important issue. The minister is aware of cross-party calls for better planning guidance, more up-to-date local plans and the need to address land availability and price in order to deliver more affordable housing in many parts of Scotland. How will she avoid confusion and duplication and ensure that there is a consistent and coherent approach to the reform of the planning system, given that all those separate elements relate broadly to the same issues? Specifically, how will the new national planning framework and the consultation paper "Making Development Plans Deliver", which have been published today, link with the current review of affordable housing that the Scottish Executive Development Department is carrying out?

Ms Curran: I am delighted that so many members are taking an interest in planning and, in the interests of consensus, I say that Shona Robison has asked a key set of questions. The Executive has given serious attention to those matters, which are an issue for us all.

As Shona Robison indicated, we are carrying out our own review of affordable housing. We are also considering the implications of the Barker review for Scotland. Jo Armstrong, who has a considerable record in the field, has joined the Executive for a short period to undertake the financial analysis that we need.

I am clear that there must be consistency and that our proposals on social housing, on affordable housing and on strategic development for housing in Scotland must link with the proposals that we take forward on planning. Indeed, it is opportune that we are conducting the review on affordable housing at the same time as a consultation on substantial issues around planning. We intend to bring those areas of work together and I would be happy to discuss that work and have debates about it in the chamber.

Mary Scanlon (Highlands and Islands) (Con): I, too, welcome the minister's statement, the national planning framework and the two consultation papers. As the real Opposition party, the Conservatives will discuss those papers with councillors and key stakeholders in business and the community.

I have a few brief points. First, I ask that we do not allow the debate simply to focus on the third-party right of appeal. That issue should be

considered in the wider context of the national planning framework and the consultations. If the debate were to focus simply on the third-party right of appeal—which could happen—the wider consultation that the Executive seeks would not take place and the process would fail.

Secondly, as part of the drive towards the modernisation of the planning system, will the minister ensure that Historic Scotland and others are accountable and responsive to public views?

Finally, page 11 of the advance copy of the minister's statement mentions Scotland's location in north-west Europe. Will the minister also remember north-west Scotland? I do not mean just the Western Isles, which are mentioned in the statement, but Shetland, which faces serious challenges, particularly in relation to fishing, and Orkney.

Ms Curran: It will be very tedious if I compliment all the Opposition speakers on the points that they raise. Indeed, that is completely outwith my character, but I am driven to do so. Mary Scanlon makes a significant point and I would be grateful for her support on the matter. It is essential that the debate does not focus entirely on third-party rights of appeal, important though that matter is. We have an opportunity to address issues that are consistently raised about the operation of the planning system and, indeed, the consultation papers raise many significant issues.

I am pleased that Mary Scanlon has referred to matters that are associated with the national planning framework. In drawing up the framework, we did not want to produce a shopping list that said, "These areas are important, ergo other areas are not important." We are trying to provide a spatial framework that emphasises connectivity and the growth and development of Scotland that we envisage. The framework will genuinely allow us to consider matters as we make decisions along the way, so we should not be concerned if a specific area was not mentioned in my statement. The north-west of Scotland will, of course, continue to receive serious attention and, as the debate about the national planning framework continues, I look forward to Mary Scanlon's continuing emphasis on that part of Scotland.

Donald Gorrie (Central Scotland) (LD): The minister need not congratulate me.

The main thrust of the Liberal Democrats' concern about planning is that we should create a system that has enough well-trained staff to speed up its operation. Complaints about delays in the system come from all sides, so I hope that the minister will focus on that matter. We want to be fair, but above all we must speed things up. Secondly, will the minister ensure that planning takes sufficient account of transport issues, which

are increasingly important? We build hospitals that nobody can get to, for example.

Ms Curran: Donald Gorrie is particularly reasonable today and I must congratulate him on that. His point about staff is significant and we must give great consideration to the matter. I have talked to a number of people in the field in recent months and I have been concerned about what I understand to be a reduction in the number of students who take up planning courses and the changes that have taken place in some university planning departments. Officials and I have acknowledged that we must give serious consideration to finding ways of assisting students to come forward.

Of course, that issue relates to a programme of staff development. Good staff who are confident and on top of their job and who can engage effectively are critical to much of the operation and implementation of the planning system. The ability to articulate issues about planning in a lively and engaging manner is a technique that I have never mastered, although there are certainly members on the Labour back benches who have done so—I will not talk about Sarah Boyack in particular.

We need to take planning out of the doldrums and have a public discussion of what planning means. Planning really matters to ordinary communities and businesses. We cannot allow it to be regarded as a dry subject. It is vital, which I think is what Donald Gorrie was driving at. We have to encourage staff to consider it in that way.

Transport is vital, too; I wanted to emphasise that more but was short of time. Donald Gorrie will know that Nicol Stephen would whole-heartedly support an emphasis on transport, so I would not have any choice in the matter anyway.

The Deputy Presiding Officer: The minister leaves me no choice but to call Sarah Boyack.

Sarah Boyack (Edinburgh Central) (Lab): That is a bit of a poisoned chalice.

I welcome the minister's statement and the various documents that have been issued this morning, which represent a big step forward towards a more streamlined and focused planning system. I particularly welcome her national planning framework and the four city-region planning documents, which are absolutely central.

I welcome the minister's comments on a third-party right of appeal and ask her to take a genuine overview of the whole system. One of the main frustrations for members of the public is that they do not see the development plans. Many development plans are totally out of date and those that are up to date are often not taken very seriously at a political level by the people who make the final decisions that shape our

environment. I welcome the minister's acknowledgement that we need to improve third-party rights—that must be one of the ideas that she acts on in the summer. She has to make the development planning system much more meaningful and she has to give it political weight. I also ask her to ensure that we have appropriate staff resources and that management is improved.

Ms Curran: I agree that we will have to give serious attention to how the system is staffed and supported. I may well discuss that with Sarah Boyack again, because it will be an on-going issue.

There is no doubt that the momentum behind the call for a third-party right of appeal has come from deep-rooted frustrations among local communities. Communities have felt left out and disfranchised and I do not doubt that there is substance in that argument. Many development plans are shockingly out of date and we are determined to put that right. When plans are so out of date, they do not serve the purpose for which they were designed. People have no confidence in such plans, which will not have kept up with developments in local communities. People do not feel that their concerns are being paid attention to. Changing and modernising the development planning system is a big part of ensuring that communities are properly enfranchised and properly informed about what is happening in their areas.

Eleanor Scott (Highlands and Islands) (Green): The partnership agreement says that the Executive

“will consult on new rights of appeal in planning cases”.

However, it seems to me that only one of the four options that the minister outlined really gives such rights. Will the Executive be prepared to settle for something that does not include some form of third-party right of appeal?

The minister did not mention strategic environmental assessment, which will come into force in July under a European directive. How does the Executive envisage incorporating strategic environmental assessment into planning?

Ms Curran: When Eleanor Scott reads the consultation documents, she will see that such issues are addressed. I would not want to suggest that we are limiting the consultation in any way. I am tempted to say that we genuinely mean that, although that implies that if we say it in a different way we do not genuinely mean it. The consultation is an attempt at having an informed and proper debate about planning, accountability and democratic participation. This Parliament allows us that possibility—we are small enough to do it and we can have a public debate in which we all engage with one another. We can ensure that

proper forums exist for that debate. So many people have access to the Parliament, so many people can influence the Parliament and so many views are represented in the Parliament, that we can have a genuine debate.

Whatever we do, we must achieve two things. We need to address the disfranchisement that many people feel in relation to the planning system—I am sure that Eleanor Scott is familiar with that issue, given her political background. People see a profound imbalance in the planning system and feel that desperately unfair things have been done to them.

We must also ensure that we have affordable housing in Scotland, that we have economic growth and that we provide services for people—be that women's aid refuges or whatever. We have to strike a balance. We cannot run away from that. We cannot allow ourselves to address one point—such as democratic imbalance—without thinking through the consequences for housing, for services and for economic growth. The Executive will have to think those issues through, but we also ask the chamber and the rest of Scotland to think them through. We have a real opportunity to have a debate about planning.

Jackie Baillie (Dumbarton) (Lab): I, too, welcome the minister's statement, the consultation on third-party rights of appeal and the national planning framework. I want to deal with the principles that underpin effective engagement with communities. Existing planning guidelines are robust in talking about involving communities right from the start, rather than consulting after the event, but for too many communities the experience is one of disengagement. Does the minister agree that it is essential to include communities from day one when devising local plans, not least because that will give them a much more strategic role, which will ultimately reduce the likelihood of objections and appeals? Does she feel that local planning forums, involving community representatives, should have a central role?

Ms Curran: Yes, that is part of the answer to some of the issues that we face. I have spoken about earlier and more targeted engagement with communities and stakeholders—I presume that that means from day one, but the earlier, the better. We must also ensure that we receive regular feedback so that we know whether people understand what is being proposed and what stage the process has reached. We have to explain the planning process to people.

The possibility of having local planning forums was suggested in "Your place, your plan". We are examining ways of making progress with that idea, with which I am sympathetic. If members have proposals, we would be interested to hear them. I

think that we are all agreed on the principle, but it is the delivery that is critical. What we do must be done in a sustained and systematic way. That work is on-going.

Stewart Stevenson (Banff and Buchan) (SNP): I congratulate the minister on responding so promptly to target 7 in the communities section of the "Annual Evaluation Report 2005-06", which says:

"In 2004, we will publish proposals for improvements to the planning system".

If only the minister could achieve such promptness in everything. The "Review of Strategic Planning" was published in 2002 and today the minister has published proposals for consultation, but when will we actually achieve change? What is the minister's target?

Ms Curran: We intend the consultation to last four months. Obviously, we will then review the outcome of the consultation. I will be happy to explain the details of that. We have indicated that we want to legislate appropriately and a planning bill will be introduced. When appropriate, I will give details of the legislative schedule for that bill. Stewart Stevenson will appreciate that it is more for the First Minister than for me to determine the priority that will be given to different pieces of legislation, but I assure him and the chamber that we have made public commitments to make legislative change. We will make progress when we hear the outcome of the consultation. I do not think that I will be able to delay things, because I do not think that my colleagues in the Cabinet would allow me to. I am sure that Stewart Stevenson would not allow it either. I will be happy to give details of the timetable.

Karen Whitefield (Airdrie and Shotts) (Lab): Does the minister agree that we must have a system that guarantees that local plans are updated regularly and in genuine consultation with communities? Does she further agree that any review of the planning framework must end the inequity that allows communities such as Greengairs in my constituency to shoulder the unacceptable burden of landfill and opencast activities? More than cultural change is required; we need to place obligations on developers that they know will be enforced.

Ms Curran: I have listened intently to Karen Whitefield's points on the planning system over recent months. There is a lot in what she says. We have to get local plans right and we have to do so within a proper timescale. Ensuring that the documents are live and real is a big part of that, as is ensuring that there is systematic, realistic and effective local engagement. I am not talking simply about people turning up at meetings; I am talking about people understanding the planning system

and being told when decisions are made. People must be kept well informed about their rights in the system.

Often, development is necessary and to be warmly welcomed. However, we must ensure an appropriate balance throughout Scotland. I am on record as saying that certain communities have taken a disproportionate share of certain developments. Things need to be done more fairly.

Karen Whitefield's final point on enforcement is critical. I have always been interested in ensuring that enforcement works. Enforcement will remain at the centre of our agenda and close attention will be paid to it.

Murdo Fraser (Mid Scotland and Fife) (Con): I welcome the minister's references to the centrality of economic growth. She will be aware that business organisations are concerned about the third-party right of appeal; I think that businesses are equally concerned that the planning system, as it is reformed, should become less cumbersome, less time consuming and less expensive for all. Can the minister assure us that those principles will be built into any necessary reform?

Ms Curran: I feel like I have arrived on another planet: I agree with Murdo Fraser.

Alex Johnstone (North East Scotland) (Con): Steady on.

Ms Curran: I know—I will be agreeing with Mike Rumbles before I know what I am doing. That was too much—I apologise to Mike Rumbles.

Murdo Fraser is absolutely right, and the business community has never hidden its concern about third-party rights of appeal, about the way in which the planning system is constructed and operated—how its day-to-day decisions are made—and about living with the consequences. Jim Wallace has engaged thoroughly with the business community and the Executive will continue to do so. We know that we need economic development in Scotland—I need it to address housing issues. We all need economic development to make Scotland grow.

We will listen intently to the business community. However, wherever people stand on the third-party right of appeal, we can improve and modernise the planning system and make it more efficient and effective. It would be a good signal for businesses if they knew today that there is consensus in Parliament about improving the efficiency and effectiveness of the planning system.

Ms Wendy Alexander (Paisley North) (Lab): I hope that the minister will agree that it is a discourtesy to Parliament and to back benchers in

particular that the national planning framework, the two consultation documents and her statement were not available at the back of the chamber when she sat down at the end of her statement. That is a lapse in the high standards that members have come to expect. Wherever responsibility lies, I think that that has undermined members' ability to contribute meaningfully on the statement.

Ms Curran: I apologise. I am sure that Wendy Alexander, of all people, knows that there are procedures to ensure that such things are done. I assumed that those procedures had been followed this morning. I will ensure that it never happens again and that members get all the appropriate documentation that they require.

The Deputy Presiding Officer: I am sure that members will appreciate that.

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): I warmly welcome the statement on the review of the planning system, especially the focus on social housing. I hope that the minister will be considering rural housing.

On the business issue, I draw the minister's attention to Penicuik Home Improvements, in my constituency, which is being crippled because of existing inefficiencies in the planning system. I am grateful to the Minister for Enterprise and Lifelong Learning for meeting representatives of Penicuik Home Improvements and me. Will the Minister for Communities ensure that the business community has the opportunity to engage in the process, and that there is a clear ambition under the review to reduce burdens on the business community?

Ms Curran: I assure the member that there will be full and proper engagement with business on the range and complexity of the issues that we are addressing. We will engage with housing interests and other wider interests under the review of affordable housing. In bringing together our various proposals, we will of course engage with business. We will ensure that the business community's recommendations on improvement of the planning system are taken on board. As Jeremy Purvis would expect, that will be balanced with the other interests that will be represented.

Rhona Brankin (Midlothian) (Lab): I welcome the statement and recognise the importance of strategic planning at the city-region level. Can the minister assure me that the mechanisms for delivering a city-region approach will allow all the local authority stakeholders in the area to engage fully in the process? Does she recognise the pressures that are faced by small local authorities, such as Midlothian Council, at a time of massive growth in the housing sector and of economic development?

Ms Curran: Yes—absolutely. Cases such as Midlothian illustrate the arguments for some of the

proposals that we have made through the city-region plan. Wider structural interests must be addressed, so that councils other than city councils can offer input and so that the wider economic regeneration impacts are taken into account. It is up to all councils to work together in partnership and to agree on the priorities for the wider areas concerned. Midlothian Council should have full opportunities to participate in the key decisions that will affect it.

Richard Lochhead (North East Scotland) (SNP): I, too, welcome the minister's statement. As a representative of North East Scotland, where many of the local and structural plans of recent years have been viewed as either shambolic or inaccurate, I hope that we can move forward.

I appreciate the fact that a consultation is being undertaken, but the Executive must have some views, and I would like the minister to confirm two objectives. First, will our communities' views be not simply registered, but acted on and genuinely taken into account? Secondly, in the minister's view, must the planning system be changed to make it easier for land to be made available for building affordable housing? Does the minister appreciate that we could throw as many millions of pounds as we like at rural housing, but it will not make the slightest difference? Rather, it will simply make landowners richer unless we use the planning system to make more land available, thus allowing the value of land to be reduced. We could then talk about a genuine increase in affordable housing. Is it the minister's objective to use the planning system to make more land available, not just in rural communities but in urban communities, so that we can increase the availability of affordable housing?

Ms Curran: I think that I have addressed a number of those points. We see that there is a need to balance the interests and views of communities with housing and other developments that may be required. There is a trick and a challenge in this. I do not know whether Richard Lochhead has properly acknowledged that communities sometimes want to prevent developments from happening: sometimes they want to say, "We want this all for ourselves." If we were to give certain communities absolutely untrammelled rights, we might kill some housing developments stone dead. As the minister who has responsibility for housing, I must—unfortunately—take that sort of thing into account.

We are trying to achieve a proper balance in which it is appropriate for communities to be involved, so that decisions are consistent and transparent. Communities should be involved not just at the beginning of the process, but throughout it. We should also ensure, however, that appropriate development takes place.

To move on to the issues that Richard Lochhead raises about land, I am very glad to hear about his support for the idea that we do not solve problems simply by throwing money at them. We need to examine the use of land and we need to consider planning systems in different sorts of locality. There are general statistics, but there are different patterns throughout Scotland. As Richard Lochhead knows, there are absolute shortages of affordable housing in certain rural areas. I reassure him that we are considering the details in that regard, both in our planning review and in the affordable housing review.

Cathie Craigie (Cumbernauld and Kilsyth) (Lab): I welcome the publication of the consultation documents today and I look forward to encouraging my community to take part in the consultation. The minister posed the question why planning matters so much. I hope that all members recognise how much it matters. Unfortunately, local views often come forward only once an application is on the table when the community has not had the opportunity to be involved in preparing plans. I agree about the significance and importance of people being consulted and involved in the preparation of local plans—

The Deputy Presiding Officer: Could you ask a question, please?

Cathie Craigie: How will the minister convince people that planning is important to them? How will we not just consult them but involve them in the whole process of developing plans?

Ms Curran: I hope that the work that we are talking about today will create opportunity at Scottish level—as part of a big public debate—and locally. It is our responsibility to engage with communities and to indicate to them the significance of planning. It is perhaps a feature of human psychology that we only ever realise the significance of a decision when it is right under our noses, and we wish that we had learned about it earlier. It is our job as political representatives—perhaps it is partly also the job of local authorities—to ensure that communities are informed as early as possible.

As I said in response to Donald Gorrie, it is important that planning is seen not just as a dry issue, but viewed as being critical to the life and the dynamic of communities. That is how we will engage with communities properly. Communities will engage when they think that it is worth their while to do so, when they think that they can influence, when they think that they can create change and when they think that their views really have an effect. That way, we will create momentum and encourage involvement and participation. We need to work hard and seriously at that; the four-month consultation will be about looking at the proposals and details.

Des McNulty (Clydebank and Milngavie)

(Lab): Like others, I very much welcome the national planning framework, the test of which will be whether it ends up propping up shelves in local planning department offices, or even in the Scottish Executive's planning department. The framework should be a tool that allows us to develop local initiatives as key elements in delivering national priorities. My test will be whether the framework can be used to help regenerate Clydebank, on which I have spent a great deal of time and effort, as have local and national agencies. Will the minister assure us that the national framework is an instrument for achieving that kind of transformative change?

Ms Curran: Yes. I think that I can give Des McNulty an absolute guarantee on that. I acknowledge the work that he has done in Clydebank and on the wider debate on the regeneration of west central Scotland. The national planning framework is about trying to ensure that we have connectivity throughout Scotland, so that big projects and investments benefit not only the areas in which they are located and their immediate surroundings, but some of the outlying areas. In Glasgow in particular, some peripheral estates do not benefit from economic growth in the city centre. That is a big challenge, which we must face.

More broadly, as Rhona Brankin said, we need to ensure that wider areas benefit from the wider regeneration. The national planning framework is designed precisely to take that forward, not so that we can sit and argue about the details of one application, but to help us to see some of the big-picture issues and some of the big challenges that we must face in the coming period.

Pauline McNeill (Glasgow Kelvin) (Lab): I welcome the Executive's neutral stance on the third-party right of appeal. Parts of my constituency are suffering from urban cramming because planning law has, on balance, favoured the developer over communities. The third-party right of appeal must be a feature of planning law, so will the minister consider a community right of appeal that would allow a review or appeal based on strict criteria, if it could be shown that that would not significantly delay the process for developers?

Will there be scope for the proposed planning bill to place a duty on planners to ensure that new developments include affordable housing? I am concerned that we might relax planning law and conventions such as green belt at the expense of affordable housing. I do not believe that that is the way forward.

Ms Curran: I thank Pauline McNeill for putting the case for a community right of appeal, which we will consider seriously as we proceed with the

consultation. It is interesting to see from recent debates that most people have begun to recognise that a completely unfettered right of appeal would be inappropriate. However, other models are emerging. Some ask for a community right of appeal, but there are questions to be asked about that too, such as how to define "community". Nevertheless, some serious models are emerging that would address issues such as those that Pauline McNeill faces daily in her constituency, and which we have all to face in trying to strike a balance throughout Scotland. A community right of appeal is a model that could easily be proposed in the consultation and it is one to which we will pay serious attention as we take the debate forward.

The Deputy Presiding Officer: I extended the time that was allocated to the statement in view of the high number of members who wished to participate. I had 21 requests to speak, so I apologise to the remaining four members whom it was not possible to include. We must now press on.

Business Motion

10:12

The Deputy Presiding Officer (Murray Tosh):

The next item of business is consideration of business motion S2M-1139, in the name of Patricia Ferguson, on behalf of the Parliamentary Bureau, setting out a timetable for stage 3 of the Education (Additional Support for Learning) (Scotland) Bill. I call on Patricia Ferguson to move the motion.

Motion moved,

That the Parliament agrees that, during the Stage 3 proceedings of the Education (Additional Support for Learning) (Scotland) Bill, debate on each part of those proceedings shall be brought to a conclusion by the time-limits indicated (each time-limit being calculated from when Stage 3 begins and excluding any periods when other business is under consideration or when the meeting of the Parliament is suspended or otherwise not in progress)

Groups 1 and 2 – no later than 40 minutes

Groups 3 and 4 – no later than 1 hour 10 minutes

Groups 5 to 8 – no later than 2 hours

Groups 9 and 10 – no later than 2 hours and 30 minutes

Groups 11 and 12 – no later than 3 hours and 10 minutes

Groups 13 to 16 – no later than 3 hours and 30 minutes

Motion to pass the Bill – no later than 4 hours.—[Patricia Ferguson.]

Motion agreed to.

Education (Additional Support for Learning) (Scotland) Bill: Stage 3

10:13

The Deputy Presiding Officer (Murray Tosh):

The next item of business is stage 3 of the Education (Additional Support for Learning) (Scotland) Bill. I make a point of advising members that they should, for stage 3, have a copy of the bill as amended at stage 2 and the revised marshalled list, which contains all amendments that have been selected for debate, including seven manuscript amendments that were lodged yesterday—as a consequence, there are also revised groupings.

Section 2—Co-ordinated support plans

The Deputy Presiding Officer: Group 1 is on children aged two or over. Amendment 61, in the name of Lord James Douglas-Hamilton, is grouped with amendments 64, 65 and 72.

Lord James Douglas-Hamilton (Lothians) (Con): Amendments 61, 64, 65 and 72 concern children who are aged two to three years. The minister asserted during stage 2 in the Education Committee that children who have extensive needs would have co-ordinated support plans from upwards of age two and a half. However, that does not go quite far enough: the Education (Scotland) Act 1980 allows children to have records of needs from two years and thus gives parents legal rights. Under that act, education authorities have a duty to identify children aged two or over but who are not yet of school age who have, or appear to have, special educational needs that are pronounced, complex or specific. Such children can also have records of needs opened and maintained for them, and the Conservatives wish the same right to apply to children aged two years and over but under five years old, because we wish our most vulnerable young people to be looked after as well in future as they were in the past.

Amendment 72 explains that “school age” should be construed as stated in section 31 of the 1980 act. That would make for consistency. I have lodged amendments 61, 64, 65 and 72 because early intervention is in the best interests of children who may, for example, have cerebral palsy. The amendments would ensure early intervention for such children and for children with other medical conditions.

I move amendment 61.

The Deputy Minister for Education and Young People (Euan Robson): Amendments 61, 64 and 65, which are similar to amendments

regarding children aged two that were considered but not pressed at stage 2, would present real practical difficulties, because they would in effect require an education authority to identify pupils for whose education they may or may not become responsible in future. It is questionable how an authority would identify such pupils: it would either have to instigate some form of inquiry or guess parents' intentions on future decisions on where to send their children for education. That would impose an unrealistic and impractical burden and would not be a sensible way for authorities to plan.

The Executive believes that amendments 61, 64 and 65 are unnecessary, because the bill will give a power to authorities to make provision for children in their early years. For example, it will introduce a duty on education authorities to prepare co-ordinated support plans for children who require them from when they attend pre-school education, and for children who are approaching that stage. In layman's terms, that will allow children with the most extensive needs to have co-ordinated support plans from two and a half years old or thereabouts. In addition, there will be a duty on education authorities to provide additional support for disabled children under three, or under five if they are not in pre-school education, if those children have been brought to their attention by health boards. The bill will also provide education authorities with a power to help all other children under three in their areas who may have additional support needs. For those collective reasons, I ask members to reject amendments 61, 64 and 65.

Amendment 72 is unnecessary because section 24(2) of the bill covers the definition of "school age" by referring to the definition in section 135(1) of the Education (Scotland) Act 1980, which in turn refers to section 31 of the 1980 act—the subject of amendment 72. That amendment would therefore duplicate what is already in the bill, so I hope that Lord James Douglas-Hamilton will consider not moving it.

Fiona Hyslop (Lothians) (SNP): I support amendments 61, 64, 65 and 72 in Lord James Douglas-Hamilton's name. The amendments address a key area of the bill and cut to the heart of the issue with which we have wrestled over many months: although Parliament wants to put children at the heart of our policy in so many areas, our problem is that, although we might have joined-up thinking, we do not have joined-up legislation. A group of children are being excluded from the bill purely because the Executive wants to define what is in education authorities' remit but not what is in the health service's remit. It is not satisfactory that the Executive seeks to bounce back to the health service the responsibility to bring to education authorities' attention children of two and over—particularly those aged two—who

have additional needs. It is important that we strengthen the provisions.

We heard reassurances from the Executive at stage 2 that existing legislation would cover remits in respect of two, three and four-year-olds. The problem is that there is no guarantee that every local authority has a partnership arrangement for three and four-year-olds who are in pre-school education. Are we really saying that, even if all local authorities had such arrangements, additional support would be provided only for the two and a half hours during which children were in nursery education and that, for the rest of the time, the children would be excluded from such support despite the fact that everybody knows that learning through play is vital in early years? The amendments cut to the heart of the approach to the bill. On that basis, I support the amendments.

Ms Rosemary Byrne (South of Scotland) (SSP): I, too, support the amendments. The minister said that the system was not in place, but that is not the case. We already have a pre-school assessment team system and the record-of-needs system, which would be simple to transfer.

I was shocked to hear the minister say that we cannot have joined-up working. The Education Committee has just taken evidence on child protection, which focuses on joined-up working. The most vulnerable children need all agencies to work for them, including education services, at the earliest stage.

I appeal to the minister to reconsider what he said. It is important that we deal properly with children aged two or over and that we meet their early needs. Not all young people go to pre-school facilities; some go to private nurseries, because their mothers work and cannot fit in with pre-school facility hours. That means that many children will be left out of the equation. I ask the minister to think again and I hope that everyone will support the amendments.

Mr Brian Monteith (Mid Scotland and Fife) (Con): I listened intently to the minister, but his response was wholly unsatisfactory. He asked how local authorities would be able cope with the amendments, but we know that local authorities coped with records of needs for two-year-olds. He then contradicted his argument by saying that other sections of the bill will place a duty on local authorities in relation to pre-school children. That surely means that local authorities can cope. Why should he be so parsimonious?

Rosemary Byrne made the point well that people will fall through gaps and will not be covered by the bill. The way to cover those people is by voting for Lord James Douglas-Hamilton's amendments, which are fair and considered. The amendments would simply ensure that all children were catered for equally.

Mr Kenneth Macintosh (Eastwood) (Lab): I ask Lord James to reconsider his amendments. My colleagues on the Education Committee—and Brian Monteith, I hope—will appreciate that we discussed the subject at length at stage 2. As Lord James said, concern has been expressed about children who have cerebral palsy and who may wish to benefit at an early age from the facilities of a school such as the Craighalbert Centre. The committee was also concerned that the bill might remove rights that children enjoy under the 1980 act. However, the Executive has addressed those concerns. The bill was amended to place on education authorities a duty to

“provide such additional support as they consider appropriate”.

It is difficult for an education authority to address needs that have not been brought to its attention, which is why health boards have a duty to identify needs and bring them to an education authority's attention. In such cases, an education authority must act. That compromise is satisfactory and will address the needs of children who attend the Craighalbert Centre. I hope that it also addressed the concerns of the committee to its satisfaction at stage 2.

Robin Harper (Lothians) (Green): I support Lord James's amendments. We must follow the philosophy that support should be provided as early as possible for all children in Scotland. For instance, a deaf child would need input almost from birth. To provide that is something that education authorities must, not just can, do.

Robert Brown (Glasgow) (LD): I support the Executive's position—

Alex Johnstone (North East Scotland) (Con): Oh, yes.

Robert Brown: I am sorry to hear such comments. The Education Committee considered in detail all the issues that arose from the bill. It does not behove people who were not involved in the committee's extensive and largely non-party-political work to make such background comments. We should deal with the issues.

The amendments in the group raise an important subject, but it has been discussed. The reality is that section 3(3A) deals with the matter to all intents and purposes. The issue is not simple; it is complex, because it ranges from involving people whose conditions or problems arise at an early stage to those whose problems are identified later, so the matter is not susceptible to the application of a single pattern. The Executive responded at stage 2 to concerns that committee members expressed in the stage 1 debate and afterwards. The Executive has produced a practical and workable response that deals with the issue.

I am not in favour of the amendments, which would add nothing. Despite Lord James's good intentions, the amendments would confuse the matter.

Euan Robson: We tried to address the matter at stage 2. We believe that health authorities will identify the children involved and that the amendments would add nothing practical, but would, as I explained, create practical difficulties. As the Education Committee's convener and Ken Macintosh said, the matter was the subject of considerable debate at stage 2, when we lodged an amendment that was agreed to, to take members' concerns into account.

Lord James Douglas-Hamilton: I am afraid that the minister's arguments are not persuasive, especially because he mentioned “practical difficulties”. Local authorities have dealt with the situation under the record-of-needs system and have not found the “practical difficulties” to be insurmountable, so I do not see why they should be insurmountable under the bill.

We lodged the amendments to make clear the strength of our commitment to young children. We believe strongly that early intervention for a child who has special learning difficulties is extremely important. Because of that commitment, I intend to press all the amendments in the group, as they would clarify the position beyond doubt.

The Deputy Presiding Officer (Trish Godman): The question is, that amendment 61 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division. Members have two minutes to vote.

For

Adam, Brian (Aberdeen North) (SNP)
Aitken, Bill (Glasgow) (Con)
Baird, Shiona (North East Scotland) (Green)
Ballard, Mark (Lothians) (Green)
Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
Byrne, Ms Rosemary (South of Scotland) (SSP)
Canavan, Dennis (Falkirk West) (Ind)
Crawford, Bruce (Mid Scotland and Fife) (SNP)
Cunningham, Roseanna (Perth) (SNP)
Curran, Frances (West of Scotland) (SSP)
Davidson, Mr David (North East Scotland) (Con)
Douglas-Hamilton, Lord James (Lothians) (Con)
Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
Ewing, Mrs Margaret (Moray) (SNP)
Fabiani, Linda (Central Scotland) (SNP)
Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
Fox, Colin (Lothians) (SSP)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Gallie, Phil (South of Scotland) (Con)
Gibson, Rob (Highlands and Islands) (SNP)
Goldie, Miss Annabel (West of Scotland) (Con)
Grahame, Christine (South of Scotland) (SNP)
Harper, Robin (Lothians) (Green)
Hyslop, Fiona (Lothians) (SNP)
Ingram, Mr Adam (South of Scotland) (SNP)

Johnstone, Alex (North East Scotland) (Con)
 Kane, Rosie (Glasgow) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 McFee, Mr Bruce (West of Scotland) (SNP)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Mundell, David (South of Scotland) (Con)
 Neil, Alex (Central Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Tosh, Murray (West of Scotland) (Con)
 Welsh, Mr Andrew (Angus) (SNP)

AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)

Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Swinburne, John (Central Scotland) (SSCUP)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Deputy Presiding Officer: The result of the division is: For 46, Against 61, Abstentions 0.

Amendment 61 disagreed to.

10:30

The Deputy Presiding Officer: Group 2 is on matters that give rise to the requirement for a co-ordinated support plan. Amendment 4, in the name of the minister, is grouped with amendments 73, 5, 62, 6 and 7.

Euan Robson: Amendment 4 aims to clear up a possible ambiguity in section 2 that the Education Committee identified at stage 2. The criteria for co-ordinated support plans include the necessity for the additional support needs of the child or young person to be enduring—they must be expected to last for more than a year. The factors that give rise to those needs can be one-off events or can perhaps happen intermittently, but the impact on the individual's learning must be long lasting. The bill is currently worded so that it is possible to read section 2(1)(b) as meaning that the factors that give rise to the additional support needs must last for more than a year. That is not the case and amendment 4 clarifies that point.

Amendment 73 is not necessary because, as I have said, Executive amendment 4 clarifies that the additional support needs must be enduring and last for more than a year rather than the factors that give rise to those needs. Regardless of that, amendment 73 would be difficult to apply in practice. It is obviously well intentioned, but it would require a prediction to be made on what was likely to recur at any time throughout a child's school career. That could involve a forecast that covers 12 years or more. I ask Fiona Hyslop not to press amendment 73. I hope that she accepts that amendment 4 covers the matter.

I oppose amendments 5, 6 and 7, as they are an attempt to broaden out the criteria for the co-ordinated support plan to a greater number of pupils. I sympathise with the reasons behind the amendments, but I do not believe that we should take such a course of action. The purpose of the co-ordinated support plan is to co-ordinate

services from across agencies over the long term for the most vulnerable children and young people. That group of children and young people are those with extensive additional support needs who require additional support from a variety of sources. If the co-ordinated support plan was to be available to a wider group, for whom the impact on education and the support required were not significant, the focus would be removed from those with extensive needs to include those with much lesser needs and those who might need only minor, short-term support. That is not the intended purpose of the co-ordinated support plan.

From discussions on similar amendments at stage 2, I remember that there was concern about the use of the word “significant”. I reassure members that the code of practice will address that issue—I think that we made that clear at stage 2. Section 23 specifically provides that the code will give guidance on the identification of complex and multiple factors and the nature of the significant additional support provided, for the purposes of deciding whether a co-ordinated support plan is required. It should not be forgotten that education authorities will have duties to identify additional support needs, to make adequate and efficient provision for those needs and to keep under consideration those needs and the adequacy of provision for each individual for whose school education they are responsible. Education authorities will be able to use other plans—such as individualised educational programmes—to plan the learning and additional support requirements of pupils who do not have a CSP. That matter will also be addressed in the code of practice. I therefore ask Lord James Douglas-Hamilton not to press amendments 5, 6 and 7.

I oppose amendment 62 for similar reasons. It also seeks to widen the criteria for a CSP to include pupils who receive additional support from only within education. As I have already said, the purpose of the co-ordinated support plan is to co-ordinate services from a variety of different agencies to provide the most effective package of support for the pupil. Amendment 62 would in effect undermine one of the fundamental principles of the bill. Again, I remind members that the bill already places a duty on education authorities to identify and to make adequate and efficient provision for each child and young person for whom they are responsible, irrespective of whether they have a CSP. Therefore, I ask Fiona Hyslop not to press amendment 62.

I move amendment 4.

Fiona Hyslop: I will speak first to amendments 73 and 4, which are connected. I acknowledge the fact that the Executive has taken on board the point that the SNP made at stage 2 about the factors themselves not being the passport to the

co-ordinated support plan. The concerns are particularly about children in bed-and-breakfast accommodation that will not last for 12 months and whose parents have episodic mental health problems, for example. Perhaps the most tragic example would be the child of a murder victim. The incident and the factor might have occurred only once, but the need for support might continue for a long time. Therefore, I welcome amendment 4.

Amendment 4 goes part of the way towards addressing my concerns. However, I lodged amendment 73 because it does not address the particular issue relating to the 12-month period. The minister said that my amendment 73 is well intentioned, but I suggest to him that it is also well sourced, as the wording comes from the Disability Discrimination Act 1995. The amendment reflects the wording of paragraph 2(2) of schedule 1 to that act in trying to define a situation in which needs might not be conclusive or continuing over 12 months, but are likely to recur, so that there is a need for a co-ordinated support plan over a period of time. The needs may be episodic just as much as the factor that caused them in the first place may be episodic. I gave the example of a child of a murder victim. The consequences of the murder might be long standing, and the educational support needs might vary and recur over a period of time; support will not necessarily be required only once. My intentions in lodging the amendment were good, although I recognise the Executive's efforts in amendment 4.

As the minister said, amendment 62 concerns the fundamentals of the bill. The aspect of the bill that causes the greatest concern is the two-tier, or three-tier, system for co-ordinated support plans and additional support for learning in general that is being developed. The Parliament has persuaded the Executive to include in the bill section 2A, which imposes a general duty in respect of additional support needs, but the Executive has not addressed the fundamental point about why children whose needs can be met solely by the education authority—in particular, children who have dyslexia or autistic spectrum disorder—should be excluded from having the rights that other children in relation to whom the health authority is involved will be given. Is it not ironic that the Executive has just rejected an amendment because it did not want health authorities to be integral and wanted them to identify two-year-olds but, all of a sudden, health authorities are part and parcel and a fundamental part of the bill? There is muddled and disjointed thinking by the Executive.

If the issue comes down to resources, why does the Executive not admit that the bill is only about administration? It is about reducing the number of children who currently have records of needs from

4,000 to the 2,000 who will get a co-ordinated support plan. The minister has made great efforts to say that those who will not have a co-ordinated support plan will still have their additional support needs met, but anybody with any experience of local authorities and support provision will know that some criteria must be used for limited resources. I believe that the approach is very much to be regretted and that amendment 62 is fundamental.

Individualised educational programmes and personal learning plans are ideas whose time is yet to come. They might be part of a universal system in the future, but they are not in the bill here and now. We have a right and a duty to stand up for children who have additional support needs but who will not get a CSP, and we should allow them the same legal rights. The issue is one of fairness and equity. Amendment 62 is fundamental to the bill and I support it.

Lord James Douglas-Hamilton: I will speak to amendments 5, 6 and 7. On amendment 5, the word “significant” needs to be deleted to avoid the current practice of some local authorities and health boards, whereby the service that is offered is based not on the child’s needs, but on what staffing is available given case loads and so on. That could mean that a child would not qualify for a co-ordinated support plan not because of their needs, but simply because of restrictions on the availability of provision.

With regard to amendments 6 and 7, the word “significant” could exclude many children who could usefully be considered. The adverse effect that arises from a child’s additional support needs will be different in every case. Each child’s potential is different, so it would be impossible to determine the effects of factors or multiple factors.

I do not think that the minister’s responses to Fiona Hyslop’s amendments at the committee meetings were persuasive. The crux of the matter is that each child’s additional support needs should be weighed on their merits and should not be excluded because they are not considered to be significant.

I support Fiona Hyslop’s amendments, particularly amendment 62, which rightly widens the criteria for a co-ordinated support plan. We lodged amendments that were broadly similar at stage 2, and I believe that it is right for the Parliament’s opinion to be tested.

Mr Adam Ingram (South of Scotland) (SNP): I will speak to amendment 62. Despite the minister’s assurance that education authorities will have a duty to identify and address the additional support needs of all pupils for whom they are responsible, there is a great deal of scepticism among parents about whether such an approach will operate in practice.

The resources that are available to education authorities are limited. Such resources should be allocated in a targeted way, according to need. The reality is that children who are in receipt of a co-ordinated support plan will have first call on those resources. With the best will in the world, I cannot see how we can avoid a situation in which a CSP becomes a passport to services, in much the same way as the record of needs is now.

Possession of a CSP will confer legal rights and, crucially, will provide access to the new tribunals. Many children have complex and multiple difficulties that require a co-ordinated response from education authorities—children with autism or dyslexia come to mind. There is a great danger that those children, many of whom are currently provided for by the record-of-needs system, will fall through the safety net that the bill designs. Amendment 62 would allow for an appropriate expansion of the eligibility criteria for a CSP, to ensure that that does not happen.

Rhona Brankin (Midlothian) (Lab): I oppose amendment 62. It is important for people to understand that one of the main reasons for the bill is to include a much wider group of pupils. A major group that the bill includes under the definition of additional support needs is pupils with emotional and behavioural difficulties. One of the problems in the past was the fact that those youngsters could not be included in consideration for a record of needs, even if they had major problems and required extensive interagency work. I welcome the fact that the bill is more inclusive.

Another reason for the bill was to address the failure of agencies to work together effectively. The bill gives local authorities and other agencies the duty and responsibility to work together. Overall, the bill includes a wider range of pupils, but it is important to remember that the children with the greatest needs have the greatest protection. I urge members to oppose amendments 62, 73, 5, 6 and 7 and to support amendment 4.

10:45

Ms Byrne: I welcome amendment 4 in the name of the minister. I support all the amendments in the group, but I will focus on amendment 62.

It is crucial to broaden access to co-ordinated support plans. Under the bill, we have a three-tier system, but we could have had a single, universal system with access for all children who require it. We now have an adversarial system and, at the outset, parents will seek redress through the tribunals to have their child considered for a CSP. There was no need for the bill to go along that road, but given that it has, the best that we can do is to try to broaden access to CSPs.

Rhona Brankin says that we are looking to create an inclusive system, and I agree with that. I welcome the broadening of additional support needs to include children with social, emotional and behavioural difficulties. However, we are also narrowing the definition and, as Adam Ingram and Fiona Hyslop said, we are excluding the large and significant group of young people who have dyslexia, are on the autistic spectrum or have dyspraxia or other syndromes. In many cases, those children have a lot of needs, but they will not be dealt with by more than one agency. That should not be a reason to exclude anyone from access to the support that they require, so I ask the minister to reconsider and to support the amendments.

Robert Brown: There has been a broad welcome for amendment 4, but I am bound to say that the arguments that have been adduced in favour of the other amendments constitute a fundamental misunderstanding of the bill. I have some difficulty in seeing how some of Rosemary Byrne's comments could be made following the Education Committee's consideration of the bill.

We are not reducing rights, but changing rights—a different system will come into place. The record-of-needs system applied to children in certain situations; however, under the bill's provisions—particularly those in section 2A—there will be a general duty on local authorities to provide for additional support needs. There is a mainstreaming approach to the matter, and within that approach there is a focus on co-ordinated support plans, which, as Adam Ingram said, lead to certain rights in relation to tribunals. There is a specific issue about that, but it is quite wrong to say that the bill will lead to an adversarial situation. It will not do so; the bill is designed to encourage mediation and the early sorting out of problems. It encourages a situation in which things are dealt with at the school level and it mainstreams the arrangements that are made for the provision of additional support. I oppose the amendments, which would damage the bill. They would not achieve the objectives that their proposers intend.

Mr Macintosh: I endorse Robert Brown's and Rhona Brankin's comments. I support the Executive's amendment 4, and I urge members to reject the other amendments in the group. I alert members to the fact that the issues and concerns that are coming up today are not new. They were debated extensively at stage 2 and the committee reached agreement on them.

I will not pretend that there are not anxieties, particularly for those who have enjoyed a record of needs and are concerned either that the statutory entitlements that they had will not be echoed in a CSP or that they will not get a CSP. However, it is wrong to see co-ordinated support plans as the be-all and end-all of the bill. The rights that were

previously the preserve of those who benefited from a record of needs are now extended to all children with additional support needs.

The danger of widening the definition of those who qualify for a CSP is that we could merely replicate the failings of the record-of-needs system, which the bill is designed to counter. The co-ordinated support plan is not the gatekeeper or, as Adam Ingram called it, the passport to the support or resources that a child needs—that is the role of the bill. It is not the CSP that guarantees resources, but the bill, and the bill does that for all children. The CSP recognises that for some children a level of co-ordination is required between the different authorities. It recognises the fact that a statutory document might be required for those with complex needs, to ensure that the joined-up approach that we all talk about actually happens. I urge members to reject the amendments—except the Executive amendment—in the group.

Mr Monteith: I support amendments 5, 6 and 7 because I believe that "significant" is a weasel word that should be removed. Children that are deserving of additional support are just that. Imagine, for instance, that we said that an MSP may become a minister only if they have a significant majority. How would we define that? Would Euan Robson be defined as having a "significant" majority? Would Peter Peacock, who does not even have a majority at all? "Significant" is a weasel word. Both men are worthy of being ministers; all children who are deserving of additional support deserve that support. Let us remove the word "significant".

Euan Robson: I am glad that members have generally welcomed amendment 4, which I believe covers the circumstances that Fiona Hyslop mentioned.

On additional rights, the bill will for the first time give children and young people who have additional support needs a right to that support. Section 2A, which was thoroughly debated at stage 2, is inclusive, as it covers the whole spectrum of needs. The point about co-ordinated support plans is that they will focus on the most vulnerable children who have the most extensive needs. In addition, section 2A extends the duty of education authorities by requiring them to assess all children and young people for whom they are responsible. Furthermore, section 2A, which was inserted at stage 2, makes it perfectly clear that education authorities have an on-going duty towards those children. Moreover, as I said at stage 2, that new duty is inspectable by Her Majesty's Inspectorate of Education.

Amendment 62 would undermine the bill. It would be divisive in a way that the bill is not. Robert Brown and Ken Macintosh are correct to

say that amendment 62 would significantly extend the duties of education authorities. I hope that Parliament will reject amendment 62. Members should be reassured that the new extension that is provided for in section 2A will be generally welcomed.

Amendment 4 agreed to.

Amendment 73 moved—[Fiona Hyslop].

The Deputy Presiding Officer: The question is, that amendment 73 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Kane, Rosie (Glasgow) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 McFee, Mr Bruce (West of Scotland) (SNP)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Mundell, David (South of Scotland) (Con)
 Neil, Alex (Central Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Tosh, Murray (West of Scotland) (Con)
 Welsh, Mr Andrew (Angus) (SNP)

AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (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)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, 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)

The Deputy Presiding Officer: The result of the division is: For 50, Against 61, Abstentions 0.

Amendment 73 disagreed to.

Amendment 5 moved—[Lord James Douglas-Hamilton].

The Deputy Presiding Officer: The question is, that amendment 5 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Grahame, Christine (South of Scotland) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Kane, Rosie (Glasgow) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 McFee, Mr Bruce (West of Scotland) (SNP)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Mundell, David (South of Scotland) (Con)
 Neil, Alex (Central Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Tosh, Murray (West of Scotland) (Con)
 Welsh, Mr Andrew (Angus) (SNP)

AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 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) (Ind)
 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)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (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)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, 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

Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Harper, Robin (Lothians) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)

The Deputy Presiding Officer: The result of the division is: For 44, Against 61, Abstentions 5.

Amendment 5 disagreed to.

Amendment 62 moved—[Fiona Hyslop].

The Deputy Presiding Officer: The question is, that amendment 62 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Kane, Rosie (Glasgow) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 McFee, Mr Bruce (West of Scotland) (SNP)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Mundell, David (South of Scotland) (Con)
 Neil, Alex (Central Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Tosh, Murray (West of Scotland) (Con)
 Welsh, Mr Andrew (Angus) (SNP)

AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
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 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)

Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (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)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, 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)

The Deputy Presiding Officer: The result of the division is: For 50, Against 61, Abstentions 0.

Amendment 62 disagreed to.

Amendments 6 and 7 not moved.

After section 2

The Deputy Presiding Officer: Group 3 is on children and young persons who lack capacity. Amendment 8 is grouped with amendments 8A, 16 to 19, 21, 24, 26, 27, 29, 31, 34 to 37, 39, 41, 43, 46, 54 and 59.

Euan Robson: Amendment 8 and amendments 16 to 19, 21, 24, 26, 27, 29, 31, 34 to 37, 39, 41, 43, 46, 54 and 59 are all intrinsically linked.

We lodged the amendments in response to the Education Committee's concerns that the bill's use of the term "incapable" is presentationally insensitive and possibly pejorative. We consulted Sense Scotland, which had also expressed concerns about the presentational impact of the

word “incapable”, and I believe that Sense Scotland is pleased with the amendments.

Amendment 8 sets the scene for the other amendments because it defines children who lack capacity and moves that definition up front. The other amendments will replace the phrase “is incapable” with “lacks capacity”, but amendment 8 is important because it sets the context for each and every time that the term is used.

I hope that members will agree that the amendments are a satisfactory solution to the concerns that were rightly expressed by the Education Committee. The Executive has taken those concerns on board, so I recommend that all those amendments should be accepted.

I ask Parliament to resist amendment 8A, which would include children and young people with developmental disorders in the definition of those who lack capacity. My main concern with amendment 8A is that the term “developmental disorder” is very broad. In practice, the term can be used to describe delayed development of language and of communication and social skills and delayed physical growth. Ken Macintosh provides no further definition of what is meant by a developmental disorder in this context. That means that, for example, a child or young person who is dyspraxic or who has not physically grown as expected might be considered to lack capacity when that might not be the case. I ask members to reject amendment 8A primarily for that reason.

Frankly, I would be concerned if the scenario that I have described were to become a reality, given the potential for the assumption to be made that, because someone has a developmental disorder, they automatically lack capacity. Clearly, that is not always the case. I doubt that it is Ken Macintosh’s intention to suggest otherwise and invite him not to move amendment 8A.

I move amendment 8.

11:00

Mr Macintosh: Before discussing amendment 8A, I will deal with the other amendments in the group. Two concerns about capacity were expressed during stage 2. The first was that the language of the bill is pejorative. Like all other members, I am grateful to the minister for the series of amendments that the Executive has lodged to tackle that issue. The second concern, which was floated by my colleague Scott Barrie, in particular, was that we are not consistent in offering children with capacity the opportunity to make decisions that affect their future. The Executive amendments do not address that issue and I would welcome comments from the minister on how it will be addressed as we move forward.

Having seen Executive amendment 8, the National Autistic Society contacted me to point out

that the amendment names different groups of disabilities but that autism does not fall into any of the categories that are specified. Autism is a developmental disorder, not a mental health problem or a learning disability. I say in response to the minister that it is recognised as a developmental disorder in the 10th edition of the “International Statistical Classification of Diseases, Injuries and Causes of Death” and in the fourth edition of the “Diagnostic and Statistical Manual of Mental Disorders”. I have lodged amendment 8A to ensure that the bill recognises children and young people with autistic spectrum disorder and does not leave them in a legal black hole when it comes to issues relating to capacity.

I was not persuaded by the minister’s argument that there could be confusion and that anyone with a developmental disorder would automatically be assumed not to have capacity. There is no such presumption, just as there is no presumption that anyone with a mental health problem will not have capacity. It is not possible for the logic that applies to the minister’s definition not to apply to mine. I would welcome further comments from the minister. In particular, I would like to hear from him how he intends to address the situation of children who have autistic spectrum disorder and do not appear to be covered by Executive amendment 8, but who would be covered if the minister accepted amendment 8A.

I move amendment 8A.

Fiona Hyslop: I want to address the issue of extending rights to children under 16. I appreciate the amendments that the Executive has lodged, which take on board concerns that the Education Committee, in particular, has raised. However, the Executive recognises that the issue of how we treat the rights of children aged 12 and over is outstanding. The minister has suggested that it may be addressed in a proposed children’s services bill. This is not necessarily just a children’s issue or a matter for the Education Committee—perhaps the justice committees should consider the spectrum of legal rights in relation to capacity and age. I recognise that the bill makes provision for consultation with children and young people throughout and that the Executive amendments help to address the matter in the bill. However, this is an outstanding issue to which I hope the Parliament will return in future.

Lord James Douglas-Hamilton: We support the minister’s amendments. Amendment 8A, in the name of Ken Macintosh, is designed to ensure that children with autism do not fall into a legal black hole and has the support of the National Autistic Society. There is grave concern among people who care for those who suffer from autism. We are sympathetic to amendment 8A and hope that the minister will accept it.

Scott Barrie (Dunfermline West) (Lab): Ken Macintosh indicated that at stage 2 I lodged a series of amendments that sought to address the issue of capacity, with particular reference to children's and young persons' rights. The aim of those amendments was to ensure that a child or young person with capacity should be able to initiate the process through which decisions are reached about his or her additional needs. It is particularly important that the principle contained in the Standards in Scotland's Schools etc Act 2000 should be reiterated in the bill. Too often in the past, children's and young persons' rights have not been consistently dealt with throughout our child care legislation.

I am grateful to the minister for the assurance that he gave at stage 2 that he would meet me and for the series of meetings that we have had. It is clear that we need to ensure that the bill is consistent not only with the Standards in Scotland's Schools etc Act 2000 but with other major pieces of legislation, such as the Age of Legal Capacity (Scotland) Act 1991 and the Children (Scotland) Act 1995. I agree that it is essential that the principle is established across the range of our child care law and thank the minister for his recent letter, in which he reiterates that point. I assure him that I look forward to working with him and the Education Committee to address the issue and to ensure that all our child care and child welfare legislation is consistent on the important point of children's rights.

Robert Brown: Like other members, I support Executive amendment 8. I want to comment briefly on amendment 8A, in the name of Ken Macintosh, which does not hit the nail on the head. There may or may not be an issue, but there is not a legal black hole. If we inserted the reference to "developmental disorder" where the member suggests, it would not meet the objective that he has set himself. As the minister said, that would mean placing people with developmental disorders automatically in the situation of incapacity, which is not Ken Macintosh's intention. The issue may be to do with the point in the bill where the member seeks to insert the term. It may be possible to deal with the matter in another way and I do not think that amendment 8A is the right way of dealing it.

Dr Elaine Murray (Dumfries) (Lab): I welcome amendment 8 and acknowledge the work that Scott Barrie, in particular, has done to bring this matter to the attention of the Education Committee. I am grateful that the Executive has taken his arguments on board and has dealt with the issue in this way.

I, too, am not convinced by the minister's arguments against amendment 8A. Neither am I convinced by Mr Brown's arguments. I admit that "developmental disorder" is a wide term and can

cover all manner of things. However, "mental illness" is also a wide term—someone does not necessarily lack capacity because they have a mental illness or, indeed, because they have a learning disability. If someone has a developmental disorder, they will not necessarily fall into either of those categories. If a young person has an extreme form of autism that makes them unable to communicate their wishes, they may fall into category 1. However, if they have a condition such as Asperger's syndrome they will not fall into that category, any more than a child with a mild form of mental illness would. I do not follow the logic of the minister's argument and would like to hear a little more.

Robin Harper: I rise to support the amendment in the name of Ken Macintosh. I have received a large mailbag on this issue, mostly from parents of autistic children who feel that their children have been excluded from the bill and who have urged me to vote against it. The Executive will be glad to know that I do not intend to take that course. However, it is very important that the parents to whom I refer should be able to see that the bill addresses their concerns in some way. I urge members to vote for amendment 8A.

Karen Gillon (Clydesdale) (Lab): I am sympathetic to the amendment in the name of Ken Macintosh. The minister needs to provide further explanation of why amendment 8A is not necessary, because I do not accept the arguments that he has made to date. The amendment is one way of addressing the position of children with autism. I hope that he will reconsider the matter.

Euan Robson: I will respond first to the point made by Scott Barrie, whose amendments were an important contribution to the work of the Education Committee at stage 2. I appreciate that he made that contribution in the form of probing amendments. We have made it clear that we will examine in more detail the issue of children's and young people's rights by working with the Education Committee and interested members such as Scott Barrie. We were concerned that if such an amendment were made to the bill we would be making piecemeal legislation when a more comprehensive view of the existing body of statute is needed. Scott Barrie was right to refer to the relevant provision of the Standards in Scotland's Schools etc Act 2000, which does not, however, appear in other pieces of legislation. Consultation on and wide discussion of the matter is needed. We would be pleased to undertake such consultation.

I turn to the important issue that Ken Macintosh has raised. I am sensitive to the point that he made about autism, but I do not believe that there is a legislative black hole. Although we acknowledge his concerns about this matter, we

are concerned that amendment 8A might have unintended consequences in certain areas. For example, a child who has dyspraxia might not actually lack capacity; however, amendment 8A would affect a child in that particular circumstance.

We feel that we can cover members' concerns on this matter in the regulations and the code of practice. Although I understand the point that Ken Macintosh is making and acknowledge that amendment 8A is very well intentioned, it is not our view that one particular group will be affected by some black hole in the legislation. That said, if members still have doubts, I am prepared to consider Mr Macintosh's specific points in the regulations and the code of practice.

Mr Macintosh: I welcome some of the minister's comments. Indeed, I welcome many of the comments that members around the chamber have made and the support that they have expressed for amendment 8A. I also generally welcome the Executive's amendments on capacity issues.

That said, I am still not persuaded by the Executive's argument. I do not accept that adding the term "developmental disorder" does anything other than cover a condition that is not currently covered in subsection (1) in amendment 8. After all, the Executive clearly does not intend to exclude children with autism from these provisions.

Robin Harper made the very good point that many parents and children with autism are anxious about the bill and have many reasons why they feel that the bill does not address their needs. I think that they are wrong and that their anxiety is misplaced. In fact, I hope that the bill's provisions will mean a huge improvement for all children with autism. However, if amendment 8A is agreed to, we will send out a strong message that children with autism and developmental disorders are included in these provisions. As a result, I will press the amendment.

The Deputy Presiding Officer (Murray Tosh): The question is, that amendment 8A be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Adam, Brian (Aberdeen North) (SNP)
Aitken, Bill (Glasgow) (Con)
Baird, Shiona (North East Scotland) (Green)
Ballance, Chris (South of Scotland) (Green)
Ballard, Mark (Lothians) (Green)
Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
Byrne, Ms Rosemary (South of Scotland) (SSP)
Canavan, Dennis (Falkirk West) (Ind)
Crawford, Bruce (Mid Scotland and Fife) (SNP)

Cunningham, Roseanna (Perth) (SNP)
Curran, Frances (West of Scotland) (SSP)
Davidson, Mr David (North East Scotland) (Con)
Douglas-Hamilton, Lord James (Lothians) (Con)
Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
Ewing, Mrs Margaret (Moray) (SNP)
Fabiani, Linda (Central Scotland) (SNP)
Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
Fox, Colin (Lothians) (SSP)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Gallie, Phil (South of Scotland) (Con)
Gibson, Rob (Highlands and Islands) (SNP)
Gillon, Karen (Clydesdale) (Lab)
Goldie, Miss Annabel (West of Scotland) (Con)
Gorrie, Donald (Central Scotland) (LD)
Grahame, Christine (South of Scotland) (SNP)
Harper, Robin (Lothians) (Green)
Home Robertson, Mr John (East Lothian) (Lab)
Hyslop, Fiona (Lothians) (SNP)
Ingram, Mr Adam (South of Scotland) (SNP)
Johnstone, Alex (North East Scotland) (Con)
Kane, Rosie (Glasgow) (SSP)
Leckie, Carolyn (Central Scotland) (SSP)
Lochhead, Richard (North East Scotland) (SNP)
MacAskill, Mr Kenny (Lothians) (SNP)
Macintosh, Mr Kenneth (Eastwood) (Lab)
Marwick, Tricia (Mid Scotland and Fife) (SNP)
Mather, Jim (Highlands and Islands) (SNP)
Matheson, Michael (Central Scotland) (SNP)
Maxwell, Mr Stewart (West of Scotland) (SNP)
McFee, Mr Bruce (West of Scotland) (SNP)
Milne, Mrs Nanette (North East Scotland) (Con)
Mitchell, Margaret (Central Scotland) (Con)
Monteith, Mr Brian (Mid Scotland and Fife) (Con)
Mundell, David (South of Scotland) (Con)
Murray, Dr Elaine (Dumfries) (Lab)
Neil, Alex (Central Scotland) (SNP)
Oldfather, Irene (Cunninghame South) (Lab)
Pringle, Mike (Edinburgh South) (LD)
Robison, Shona (Dundee East) (SNP)
Scanlon, Mary (Highlands and Islands) (Con)
Scott, Eleanor (Highlands and Islands) (Green)
Scott, John (Ayr) (Con)
Smith, Elaine (Coatbridge and Chryston) (Lab)
Sturgeon, Nicola (Glasgow) (SNP)
Swinburne, John (Central Scotland) (SSCUP)
Welsh, Mr Andrew (Angus) (SNP)

AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)
Baillie, Jackie (Dumbarton) (Lab)
Baker, Richard (North East Scotland) (Lab)
Barrie, Scott (Dunfermline West) (Lab)
Boyack, Sarah (Edinburgh Central) (Lab)
Brankin, Rhona (Midlothian) (Lab)
Brown, Robert (Glasgow) (LD)
Butler, Bill (Glasgow Anniesland) (Lab)
Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Curran, Ms Margaret (Glasgow Baillieston) (Lab)
Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
Eadie, Helen (Dunfermline East) (Lab)
Ferguson, Patricia (Glasgow Maryhill) (Lab)
Glen, Marilyn (North East Scotland) (Lab)
Henry, Hugh (Paisley South) (Lab)
Hughes, Janis (Glasgow Rutherglen) (Lab)
Jackson, Gordon (Glasgow Govan) (Lab)
Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
Kerr, Mr Andy (East Kilbride) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)

Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (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)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Tavish (Shetland) (LD)
 Smith, Iain (North East Fife) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Wallace, Mr Jim (Orkney) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

ABSTENTIONS

Smith, Margaret (Edinburgh West) (LD)

The Deputy Presiding Officer: The result of the division is: For 56, Against 50, Abstentions 1.

Amendment 8A agreed to.

The Deputy Presiding Officer: There is very little time to speak on this matter, but I have to ask the minister whether he intends—

Dennis Canavan (Falkirk West) (Ind): To resign.

The Deputy Presiding Officer: I think that that might be a bit excessive at this stage. At the moment, I am interested only in knowing whether he intends to press amendment 8, as amended.

Euan Robson: Yes.

Amendment 8, as amended, agreed to.

Section 2A—Duties of education authority in relation to children and young persons for whom they are responsible

The Deputy Presiding Officer: I ask Lord James Douglas-Hamilton to indicate whether he intends to move amendment 64, which was previously debated with amendment 61.

Lord James Douglas-Hamilton: As we have already voted on the principle, I will not move amendment 64.

Amendment 64 not moved.

11:15

The Deputy Presiding Officer: Group 4 is on the general powers and duties of education authorities. Amendment 9, in the name of the minister, is grouped with amendments 10, 74, 11, 12, 14, 15 and 25.

Euan Robson: Amendments 9, 12 and 15 have been lodged in response to debates during stage 2 on the application of subjective rather than objective criteria by education authorities. At stage 2, I undertook to examine the bill to ensure that there was consistency in that matter.

As a result, amendment 9 seeks to replace the subjective criteria in section 2A(1)(b) with an objective criterion in relation to the authority's arrangements for monitoring and reviewing the additional support needs of each child and young person. The effect of the amendment will be that, instead of education authorities simply considering whether the arrangements are appropriate, they must ensure that the arrangements are appropriate.

Similarly, amendments 12 and 15 seek to replace the subjective criteria in section 3(3A) and (4) in relation to the additional support that will be provided for the individual. Instead, the additional support must be appropriate rather than what the education authority considers to be appropriate.

On amendments 10 and 25, I listened carefully at stage 2 to Lord James Douglas-Hamilton's comments about adequacy and effectiveness. Indeed, the issue of effectiveness was raised several times at stage 2 but was rejected each time. Amendment 10 and the similarly worded amendment 25 are unnecessary. An education authority that makes adequate and efficient provision must also, by the very nature of that provision, be providing effective provision. If provision is ineffective, it cannot be adequate. We feel that it is sufficient to keep the adequacy of additional support under consideration, as that will also ensure that it is effective. As a result, I ask members to reject amendments 10 and 25.

Amendment 74 is intended to remove any consideration of public expenditure when an education authority makes provision to meet the additional support needs of the pupils for whom they are responsible. However, remaining silent on that matter, which would be the consequence of the amendment, is unrealistic. After all, an education authority should not be obliged to incur unreasonable expenditure. I should make it clear that the consideration of costs is not the primary concern when making provision for additional support needs. It is right that, as a public body that is accountable for public funds, an education authority should consider the reasonableness of incurring any public expenditure. As we feel that

we have achieved the right balance in that respect, I ask members to reject amendment 74.

Amendment 11, in the name of Rosemary Byrne, is unclear and unnecessary. For example, its reference to “the best interests” of the child or young person is not clear. Does that mean the best interests in an educational context or does it include all types of interests? Moreover, the amendment is unnecessary because we already have legislation that governs education authorities’ duties with regard to individual children. Indeed, that legislation includes a duty to ensure that education is directed at developing

“the personality, talents and mental and physical abilities of the child or young person to their fullest potential”.

As a result, I ask members to reject amendments 11 and 14.

I move amendment 9.

The Deputy Presiding Officer: Because of time pressures, I ask Lord James Douglas-Hamilton to take only a minute to speak to amendments 10, 14 and 25.

Lord James Douglas-Hamilton: I will cut short my remarks and speak in particular to amendments 10 and 25. At stage 2, the committee convener, Robert Brown, had the courage to lodge amendments that suggested that the word “effectiveness” was better than the word “adequacy”. Indeed, when the minister disagreed, Mr Brown went so far as to resist the minister’s blandishments by abstaining in the vote.

If the Executive was described as adequate rather than effective, that might be taken to mean that the Executive was less than whole-hearted in its purpose. If the bill is to stand the test of time, it will have to be not just adequate, but effective. According to the dictionary, “adequate” means that something is able to fulfil a need or requirement without being abundant and “effective” means that something is productive or is capable of producing a result. All members would wish to pass a bill that is capable of producing a result for children with additional support needs.

I appeal to the minister as a fair-minded man to be fair to himself and accept amendments 10 and 25. Would it not be better if in his handling of the bill the minister was remembered for his effectiveness and not just for his adequacy? After all, none of us wish him to be remembered for having delusions of adequacy.

The Deputy Presiding Officer: I call Donald Gorrie to speak to amendment 74. You also have only one minute, Mr Gorrie.

Donald Gorrie (Central Scotland) (LD): Amendment 74 would delete from section 2A the words:

“would result in unreasonable public expenditure being incurred.”

The minister has moved a little on that subject, but the wording in the bill still leaves the door open for councils not to provide adequate facilities. The background to my amendment is the widespread scepticism that has been repeatedly expressed to the cross-party group on autistic spectrum disorder, especially by parents of people with autistic spectrum disorder. They are totally sceptical about councils fulfilling their duties.

It is essential that the minister either accepts amendment 74 or ensures that the guidance and the code set out very clearly what he has said. There should be wording to the effect that the priority is to meet the best interests of the child in terms of adequate and appropriate levels of support. There must be no room for manoeuvre for a council to fail to provide adequate support just because it has a wee problem with its budget. It is an important issue and what the minister says is of great significance.

The Deputy Presiding Officer: Rosemary Byrne also has one minute.

Ms Byrne: I want to speak to amendment 11, which is in my name. The wording that I want to add to section 3, under the heading “General functions of education authority in relation to additional support needs”, is important. I disagree with the minister. Amendment 11 seeks simply to ask that the best interests of the child be taken into account by every education authority in any of its functions in connection with the provision of school education and, in this case, specifically in connection with the additional support needs of children and young people.

I can cite many instances in which the best interests of the child are not necessarily always at the forefront. For example, there are children on the autistic spectrum who are at present being taught in support bases in our mainstream schools and whose parents are at odds with the education authority because they desire an autistic-specific education rather than an autistic-friendly education. That is a good example of an instance in which young people are being let down by the system. I urge members to support amendment 11.

The Deputy Presiding Officer: I am afraid that there is no time for anyone else to contribute or for me to call the minister to respond.

Amendment 9 agreed to.

Amendment 10 moved—[Lord James Douglas-Hamilton].

The Deputy Presiding Officer: The question is, that amendment 10 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Kane, Rosie (Glasgow) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 McFee, Mr Bruce (West of Scotland) (SNP)
 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)
 Mundell, David (South of Scotland) (Con)
 Neil, Alex (Central Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Welsh, Mr Andrew (Angus) (SNP)

AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)

Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 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)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, 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)

The Deputy Presiding Officer: The result of the division is: For 50, Against 60, Abstentions 0.

Amendment 10 disagreed to.

The Deputy Presiding Officer: Amendment 74, in the name of Donald Gorrie, has already been debated with amendment 9. Mr Gorrie, do you wish to move amendment 74?

Donald Gorrie: On a point of order, Presiding Officer. Is it possible for the minister to respond? Whether or not I press my amendment depends on that.

The Deputy Presiding Officer: No, that is not possible.

Donald Gorrie: I shall press the amendment.

Amendment 74 moved—[Donald Gorrie].

The Deputy Presiding Officer: The question is, that amendment 74 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Curran, Frances (West of Scotland) (SSP)
 Fox, Colin (Lothians) (SSP)
 Gorrie, Donald (Central Scotland) (LD)
 Harper, Robin (Lothians) (Green)
 Kane, Rosie (Glasgow) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Scott, Eleanor (Highlands and Islands) (Green)
 Smith, Margaret (Edinburgh West) (LD)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marilyn (North East Scotland) (Lab)
 Grahame, Christine (South of Scotland) (SNP)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, 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)
 Lochhead, Richard (North East Scotland) (SNP)
 Lyon, George (Argyll and Bute) (LD)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McFee, Mr Bruce (West of Scotland) (SNP)

McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 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)
 Robison, Shona (Dundee East) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Swinney, Mr John (North Tayside) (SNP)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Welsh, Mr Andrew (Angus) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

ABSTENTIONS

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)
 Mundell, David (South of Scotland) (Con)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)

The Deputy Presiding Officer: The result of the division is: For 13, Against 82, Abstentions 17.

Amendment 74 disagreed to.

Section 3—General functions of education authority in relation to additional support needs

Amendment 11 moved—[Ms Rosemary Byrne].

The Deputy Presiding Officer: The question is, that amendment 11 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Kane, Rosie (Glasgow) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 McFee, Mr Bruce (West of Scotland) (SNP)
 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)
 Mundell, David (South of Scotland) (Con)
 Neil, Alex (Central Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Swinney, Mr John (North Tayside) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)

AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marilyn (North East Scotland) (Lab)
 Gorrie, Donald (Central Scotland) (LD)

Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 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)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, 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)

The Deputy Presiding Officer: The result of the division is: For 52, Against 61, Abstentions 0.

Amendment 11 disagreed to.

Amendment 12 moved—[Euan Robson]—and agreed to.

Amendment 14 moved—[Lord James Douglas-Hamilton].

The Deputy Presiding Officer: The question is, that amendment 14 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division. Members who wish to support amendment 14 should press their request-to-speak buttons now. I am sorry—I mean that they should press their yes buttons now. My tongue is working faster than my brain, I am afraid.

Rhona Brankin: That is not hard.

The Deputy Presiding Officer: No change there. I look forward to Ms Brankin's next speech in three years' time.

For

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Kane, Rosie (Glasgow) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 McFee, Mr Bruce (West of Scotland) (SNP)
 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)
 Mundell, David (South of Scotland) (Con)
 Neil, Alex (Central Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Swinney, Mr John (North Tayside) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)

AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)

Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (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)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 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)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, 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)

The Deputy Presiding Officer: The result of the division is: For 52, Against 58, Abstentions 0.

Amendment 14 disagreed to.

Amendment 15 moved—[Euan Robson]—and agreed to.

Section 4—Children and young persons for whom education authority are responsible

Amendment 65 not moved.

Amendment 16 moved—[Euan Robson]—and agreed to.

Section 5—Other children and young persons

Amendments 17 and 18 moved—[Euan Robson]—and agreed to.

Section 6—Assessments and examinations

Amendment 19 moved—[Euan Robson]—and agreed to.

The Deputy Presiding Officer: Group 5 is on assessments and examinations. Amendment 66, in the name of Rosemary Byrne, is grouped with amendments 67 and 71.

Ms Byrne: I shall discuss all the amendments in this group together, as amendments 66 and 71 are consequential on amendment 67. I have had concerns about section 6 from the outset, and my colleagues on the Education Committee will be aware of the fact that I have taken up the issue of assessment since the beginning of our deliberations. I have looked at the issue in many different ways and I had hoped that there would be some improvement.

My concerns about section 6 are about multidisciplinary assessment and correct diagnosis so that appropriate support can be put in place for children and young people. In my experience, one of the most crucial areas of concern to parents is often the fact that the correct assessment has not been carried out on their child. I have met many parents who have taken years to discover that their child is dyspraxic when problems in the early stages of school had been put down to bad behaviour or bad parenting.

I have looked carefully to see whether the bill improves that situation, because a new bill should, after all, introduce something that will make life easier not only for the parents and the child but for the education system, which should be able to assess, examine, diagnose and provide the correct and appropriate support. Children and young people with autistic spectrum disorder often require the expertise of many agencies in order to get a proper diagnosis and proper support. All too often, that is an area of great concern. A huge amount of expertise is needed to diagnose and assess in those areas. Amendments 66 and 67 would allow multidisciplinary assessments to be carried out and I hope that the amendments will be supported.

I move amendment 66.

11:30

Lord James Douglas-Hamilton: We support amendment 66 because we believe that it would allow more people to be considered for the carrying out of assessments. Amendment 67 tightens up the duty on local authorities, which is appropriate. Amendment 71 would provide that the code of practice could make it clear which appropriate professionals can request a multidisciplinary assessment. The amendments are worthy of support.

Robert Brown: Rosemary Byrne identifies an important issue, which the committee, too, was concerned about. However, the remedy that she suggests is not right. The issue is complex and different situations require different remedies. The proper way to deal with the detail of the issue is through the code of practice. I urge the chamber to reject the amendments.

Euan Robson: The effect of amendment 66 would be that anyone could have a say in who is or is not an appropriate person to carry out an assessment or examination. I do not believe that that is what Rosemary Byrne intended. The bill includes provision for ensuring that the views of parents, children and young people are taken into account. Education authorities must also take into account any information that parents or young people submit or that has been submitted on their behalf.

Amendment 67 is not necessary. Section 6 already allows the parent or young person to request an assessment and there is nothing to preclude the parent from requesting a range of multidisciplinary assessments. Amendment 71 is consequential on amendments 66 and 67, so I also resist that.

Ms Byrne: I disagree with Robert Brown. I believe that this is the correct road to take. Although I welcome the broadening out that gives parents access to request assessments, I do not think that we have gone far enough. In many cases, parents already request assessments, but they do not get the correct assessment, and the appropriate people are not making those assessments. I will press amendment 66.

The Deputy Presiding Officer: The question is, that amendment 66 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
Aitken, Bill (Glasgow) (Con)
Baird, Shiona (North East Scotland) (Green)
Ballance, Chris (South of Scotland) (Green)
Ballard, Mark (Lothians) (Green)
Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
Byrne, Ms Rosemary (South of Scotland) (SSP)
Canavan, Dennis (Falkirk West) (Ind)
Crawford, Bruce (Mid Scotland and Fife) (SNP)
Cunningham, Roseanna (Perth) (SNP)
Curran, Frances (West of Scotland) (SSP)
Douglas-Hamilton, Lord James (Lothians) (Con)
Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
Ewing, Mrs Margaret (Moray) (SNP)
Fabiani, Linda (Central Scotland) (SNP)
Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
Fox, Colin (Lothians) (SSP)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Gallie, Phil (South of Scotland) (Con)

Gibson, Rob (Highlands and Islands) (SNP)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Kane, Rosie (Glasgow) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 McFee, Mr Bruce (West of Scotland) (SNP)
 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)
 Mundell, David (South of Scotland) (Con)
 Neil, Alex (Central Scotland) (SNP)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Swinney, Mr John (North Tayside) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)

AGAINST

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (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)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (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)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)

Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 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)
 Scott, Tavish (Shetland) (LD)
 Smith, Iain (North East Fife) (LD)
 Smith, 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)

The Deputy Presiding Officer: The result of the division is: For 50, Against 59, Abstentions 0.

Amendment 66 disagreed to.

Amendment 67 moved—[Ms Rosemary Byrne].

The Deputy Presiding Officer: The question is, that amendment 67 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Kane, Rosie (Glasgow) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)

Maxwell, Mr Stewart (West of Scotland) (SNP)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McGregor, 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)
 Mundell, David (South of Scotland) (Con)
 Neil, Alex (Central Scotland) (SNP)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Swinney, Mr John (North Tayside) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)

AGAINST

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (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)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
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 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (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)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
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 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)
 Scott, Tavish (Shetland) (LD)

Smith, Iain (North East Fife) (LD)
 Smith, 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)

The Deputy Presiding Officer: The result of the division is: For 50, Against 59, Abstentions 0.

Amendment 67 disagreed to.

Section 7—Duty to prepare co-ordinated support plans

The Deputy Presiding Officer: Amendment 20, in the name of Rhona Brankin, is grouped with amendments 1, 22, 23, 28, 30, 91, 2, 3, 33, 33A, 33B, 33C, 33D and 93. If amendment 20 is agreed to, amendments 1 and 21 are pre-empted. If amendment 91 is agreed to, amendments 2 and 31 are pre-empted. If amendment 33A is agreed to, amendment 33B is pre-empted. If amendment 33C is agreed to, amendment 33D is pre-empted. I hope that you have all got that.

Rhona Brankin: I will speak to amendment 20 and the consequential amendments 91, 33A, 33B, 33C and 33D. Section 7(1A) states that education authorities

“need not comply with the duty”

to prepare co-ordinated support plans when the parent or young person agrees with that. That could fundamentally undermine the rights of parents and young people to have a co-ordinated support plan opened when the criteria are met.

One of the main policies driving the bill is the need to ensure that children with additional support needs have the same right to have those needs met wherever they live in Scotland. One of the main criticisms of the previous record-of-needs legislation was the variation with which it was applied in different local authorities.

Another main policy behind the bill is the need to ensure continuity of provision when children with a CSP move to a school in a different local authority. In such cases, the CSP is vital to ensuring that the receiving authority can make appropriate provision quickly.

The bill seeks to establish new rights for children with additional support needs and their parents. However, as it stands, the bill will allow local authorities too much flexibility in interpreting the legislation. The danger is that it tips the balance away from the rights of parents and children and towards the rights of local authorities. There is also a danger that it could act as a get-out clause for local authorities that might be concerned about bureaucracy. One of the bill's benefits is that it will reduce bureaucracy.

There is also a concern that looked-after children could be seriously disadvantaged. If the local authority is acting as the parent, how can it agree with itself not to open a co-ordinated support plan? How are the rights of the young person protected in that instance?

Parents who are well aware of their rights under the legislation will be able to insist that a co-ordinated support plan is opened, but there is a danger that those parents who are less well informed about their rights might be persuaded that a co-ordinated support plan is not necessary even though it might be in their and their children's interests to have a plan. Those are the reasons behind amendment 20 and the consequential amendments.

I move amendment 20.

Fiona Hyslop: I, too, have serious concerns about the stage 2 amendment that was lodged at the suggestion of the Convention of Scottish Local Authorities. Amendments 1, 2 and 3 seek to protect the rights of looked-after children in particular. As Rhona Brankin said, the local authority will have rights as a provider and as the parent. I lodged amendments 1, 2 and 3 because I was concerned that the balance had shifted from the rights of parents back towards those of local authorities.

We have grappled with that issue throughout consideration of the bill, as has the Executive—hence amendment 33. If the Executive were so relaxed about the fact that there might be agreement not to have CSPs, why is there an extensive amendment to compensate for the fact that there might be problems? I realise that if amendment 20 is passed, it will pre-empt amendments 1, 2 and 3, but I think that the logical path is to support amendment 20. Although Rhona Brankin and I have disagreed on a number of issues while considering the bill, I think that we can come together on this one.

If there is logic to it, COSLA's case can be made at a later stage when the legislation has bedded in. The issue is to do with trust, and the jury is out among parents as to whether they can trust local authorities to deliver. We should wait and see before accepting that case. I urge members to take the commonsense approach and support amendment 20. If that fails, they should support amendments 1, 2 and 3.

Euan Robson: I start by speaking to amendment 33 and consequential amendments 22 and 28. In light of the committee's deliberations, I lodged those amendments to qualify the amendments that were accepted at stage 2 on the provision for agreement not to prepare or continue a co-ordinated support plan. I have since had further discussions with members,

and I listened carefully to Rhona Brankin's eloquent summary of the reasons for her amendments. I am now prepared to accept amendments 20, 93 and 91. I will therefore not move amendment 33 and consequential amendments 22 and 28.

Amendment 23 is straightforward. Its purpose is to ensure that a co-ordinated support plan contains the name and contact details of the person who is co-ordinating the provision of the additional support under the CSP, whether that person is part of the authority or outwith the authority. As the bill is worded, the details would be recorded on the CSP only when the person was outwith the authority. That was not the intention and it needs to be changed. It is likely that the majority of CSPs will be co-ordinated by a member of the education staff. It is important that the CSP is specific about who is taking the co-ordinating role. Amendment 23 will ensure that that happens.

Amendment 30 is a minor technical amendment to tidy up section 9(6). I will not go into the details.

I understand fully why Fiona Hyslop lodged amendments 1, 2 and 3 but, in accepting amendment 20, we will accept the will of Parliament.

Lord James Douglas-Hamilton: I am grateful that the minister is going to accept amendment 20, for which we have considerable sympathy. The interests of the child should be paramount, but there might have been exceptional circumstances in which section 7(1A) did not find itself in accordance with the best interests of the child.

Rhona Brankin gave a persuasive speech. There is strong support for her amendments from Children in Scotland and Barnardo's Scotland. The research and policy officer of Barnardo's Scotland sent a strong e-mail to that effect. He goes by the name of Douglas Hamilton and, in all fairness, I see no reason why Douglas-Hamilton cannot support Douglas Hamilton.

Dr Murray: I, too, am pleased that the Executive has accepted amendment 20. Rhona Brankin is to be congratulated on the doggedness with which she has pursued her concern. Section 7(1A), which was introduced at stage 2, was stimulated by confusion, originally from COSLA, about who might be eligible for a co-ordinated support plan. That confusion has been erased and there is now considerably more clarity about who is eligible. I am grateful to the Executive for agreeing that subsection (1A) should be removed.

Amendments 33A to 33D are unnecessary, because amendment 20 will supersede amendment 33.

Robin Harper: I congratulate Rhona Brankin on lodging amendment 20 and the Executive on accepting it. There was an unacceptable risk in the bill that young children would not get the service that they deserve. That risk will now be removed, for which I am thankful.

Scott Barrie: I, too, congratulate Rhona Brankin on amendment 20 and the consequential amendments, and I am glad that the Executive is accepting them. The record-of-needs system has led to wide differentiation in the way that records of need are used in Scotland, particularly since the creation of 32 local education authorities under local government reorganisation. If we are to have a new way of dealing with youngsters who require additional support, it is important that we have a much more consistent system throughout Scotland. Section 7(1A), which was inserted at stage 2, would have led to the opposite, and to the system that we have at the moment, so I am glad that the situation will be remedied by the removal of that subsection.

Rhona Brankin: I very much welcome the Executive's change of heart. There may have been a fundamental misunderstanding on the part of COSLA. Any potential new bureaucracy around the bill will need to be monitored closely. I welcome the Executive's change of heart, which restores my belief that the bill will give parents and children significant new rights.

Amendment 20 agreed to.

11:45

The Deputy Presiding Officer: Minister, will you move amendment 22?

Euan Robson: It is consequential, so I will not move it.

Amendment 22 not moved.

Amendments 23 and 24 moved—[Euan Robson]—and agreed to.

Section 8—Reviews of co-ordinated support plans

Amendment 25 not moved.

Amendment 26 moved—[Euan Robson]—and agreed to.

Section 9—Co-ordinated support plans: further provision

Amendments 27 to 30 moved—[Euan Robson]—and agreed to.

The Deputy Presiding Officer: I remind members that if amendment 91 is agreed to, it will pre-empt amendments 2 and 31.

Amendment 91 moved—[Rhona Brankin]—and agreed to.

The Deputy Presiding Officer: Amendment 3, in the name of Fiona Hyslop, has been debated with amendment 20. Are you moving amendment 3, Ms Hyslop?

Fiona Hyslop: Can you clarify whether amendment 3 is pre-empted by amendment 20?

The Deputy Presiding Officer: It is not pre-empted.

Amendment 3 moved—[Fiona Hyslop].

The Deputy Presiding Officer: The question is, that amendment 3 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Kane, Rosie (Glasgow) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Martin, Campbell (West of Scotland) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Mundell, David (South of Scotland) (Con)
 Neil, Alex (Central Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)
 Stevenson, Stewart (Banff and Buchan) (SNP)

Swinburne, John (Central Scotland) (SSCUP)
 Swinney, Mr John (North Tayside) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)

AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (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)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 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)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, 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)

The Deputy Presiding Officer: The result of the division is: For 53, Against 60, Abstentions 0.

Amendment 3 disagreed to.

The Deputy Presiding Officer: Group 7 is on education authorities' duty to inform. Amendment 32, in the name of the minister, is grouped with amendments 90, 53 and 55. If amendment 90 is agreed to, amendment 53 will be pre-empted.

Euan Robson: Amendment 32 is a minor technical amendment to tidy up the bill to avoid duplication of the provision that it is intended to introduce with amendment 55. It will delete reference in section 9(9) to the form and manner in which an education authority will be required to give information to parents, young people and managers of independent and grant-aided schools.

Section 23A makes specific provision on information that is to be provided when authorities decide not to comply with requests. Amendment 55 is intended to add a provision on the form in which information is to be given to parents and young people. Amendment 55 provides that when an education authority communicates with parents or young people under the bill, they do so in writing. Alternatively, that communication may be in another form that is capable of some permanence, where that other form is appropriate, given the communication needs of the recipient. Therefore section 9(9)(g) is no longer required.

On amendment 53, I gave a commitment at stage 2 to consider the wording of an amendment lodged by Fiona Hyslop. I said at the time that I wanted to ensure that when a refusal of a request gives rise to a right of referral to the tribunals, that right is highlighted in any education authority response. The bill has been examined for any inconsistencies. Amendment 53 will plug the gap. Reference will be made in section 23A to section 4(2)(b), which refers to an education authority's refusal to consider a child or young person's requirement for a co-ordinated support plan.

I oppose amendment 90 on the ground that the bill already adequately covers the circumstances that can and cannot be referred to the tribunals. In addition, amendment 53 already addresses any inconsistency in the bill with regard to notification of rights of referral. I ask Adam Ingram not to move amendment 90.

I move amendment 32.

Mr Ingram: With amendment 90 I want to ensure that everyone who has the right to appeal to the tribunal after a legitimate request is refused is provided with the relevant information as to their rights to do so. I acknowledge that, by introducing amendment 53, the minister has responded to the natural justice arguments that Fiona Hyslop raised at stage 2, but in doing so he has limited the scope for referral to requesting the establishment or review of a CSP. We want to expand the scope

for referrals to tribunals beyond those narrow parameters and I have lodged amendments to that effect that Parliament has yet to consider. Amendment 90 would not pre-empt that debate, but, by contrast, amendment 53 is too restrictive.

Amendment 32 agreed to.

After section 9

Amendment 33 not moved.

Section 10—Duties to seek and take account of views, advice and information

Amendments 34 and 35 moved—[Euan Robson]—and agreed to.

The Deputy Presiding Officer: Group 8 is on the duties that arise when a child or young person nears completion of school education. Amendment 68, in the name of Elaine Murray, is grouped with amendments 76, 38, 77 and 92.

Dr Murray: Amendment 68 may seem a rather strange little amendment because it would simply change wording from the present tense to the present perfect tense. However, I believe that it has caused a fair stir among the draftspersons because it is unusual for wording to be in that tense. I lodged amendment 68 because concerns have been continually expressed about the way in which arrangements will be made for transition from school. The amendment would make it clear that the process is to be completed 12 months before the child leaves rather than commence at that point. As written, the duty could imply that consideration of the information may take place during the 12 months before the child leaves rather than before that period. I believe that the Executive's intention is that that should not happen, but changing the tense might make the intention a bit clearer. I introduced a similar amendment at stage 2, but I did not press it because the Executive wanted to consider alternatives.

Amendment 76, in the name of Rosemary Byrne, probably has the same intention, but it might require education authorities to ensure that children receive adequate support after leaving school. That is not really within the competence of education authorities; it will be an obligation on the organisations to which young people go after leaving school. The Executive's amendment 38 is intended to have the same effect as my amendment would have, but I am not convinced that it will do so. I wait to hear from the minister how amendment 38 will achieve the same effect as amendment 68.

Amendment 77 would require education authorities to provide information to the relevant agencies 12 months before a child transfers from school. However, that could be simultaneous with

the completion of the examination of the arrangements that are needed, which might be somewhat impractical.

I move amendment 68.

Ms Byrne: Amendments 77 and 92 aim to tighten up anomalies in the bill. Information on young people who are leaving school should be exchanged between the agencies that support the young person. That should be done a minimum of 12 months, not six months, prior to the transition from school. However, although section 10(5)(a) states that education authorities must request information at least 12 months prior to the transition, section 11(1)(a) states that they must provide information to other agencies at least six months prior to that date. We should tidy that up and make the period 12 months in both cases.

Amendment 76 relates to the duties to seek and take account of advice and information. Alongside amendments 77 and 92, amendment 76 has been lodged to ensure that everything possible is done to make the transition from school to college, training or other placements as smooth as possible. Amendment 76 would make section 10 read "in ensuring that adequate support is co-ordinated or provided for the child or young person during the period before the child or young person ceases to receive school education", rather than

"in considering the adequacy of the additional support provided for the child or young person during the period before the child or young person ceases to receive school education."

The change in wording would strengthen the commitment to ensuring ease of transition. The present system uses formal needs assessments and good practice exists. Amendment 76 would ensure that that good practice continues. We do not want to diminish it. I ask members to support amendments 76, 77 and 92.

Euan Robson: In response to the possibility of misunderstandings about timescales on post-school transition, I undertook to consider the introduction of an amendment to clarify the situation. Amendment 38 will change the wording of section 10(6) from "support provided" to "support to be provided". The amendment is intended to make it clear that, while education authorities must have obtained information and views and taken account of them before they reach the point 12 months prior to the child or young person's expected leaving date, that information is to be used to inform the adequacy of the provision that is to be made for the period leading up to the leaving date. I reiterate that that has always been the policy intention and I regret that it was not clear from the original wording.

I resist amendment 68 on the ground that it is unnecessary in the light of amendment 38. Amendment 68 is also inconsistent with drafting elsewhere in the bill and in other legislation. Elaine

Murray is correct that there was considerable debate about the matter with the parliamentary draftsmen. Section 11(1) might cause confusion if the present perfect tense were used in section 10(5). Amendment 68 might be interpreted as a deliberate move to distinguish section 10(5) from others, which would be unfortunate. Amendment 38 should help to give a clearer sense that action must have been taken 12 months before the leaving date. Elaine Murray and I had recourse to English grammar texts in discussing the issue, but I hope that she agrees that amendment 38 clarifies matters sufficiently and that she will withdraw amendment 68.

I resist amendment 76 because it is unnecessary. The purpose of the amendment is to ensure that education authorities co-ordinate and provide adequate support during the 12-month period before the young person leaves school. However, the bill already places a duty on education authorities to identify and support the additional support needs of all children and young people for whom they are responsible. That duty applies throughout a child or young person's school career. If a young person needs additional support that requires an element of co-ordination, that will be done through the young person's CSP or individualised educational programme. I ask Rosemary Byrne not to move amendment 76.

I resist amendment 77 on the same grounds on which I resisted a similar amendment at stage 2. Amendment 77 proposes that information should be passed to post-school support agencies no later than 12 months before the school leaving date. However, such a timescale would not achieve the aim of providing information. The policy intention behind the duty on education authorities to pass information to agencies that provide post-school provision is to alert those agencies to the young person's imminent leaving date. Amendment 77 would oblige education authorities to pass on information that may be premature or no longer relevant by the time the young person leaves school. Amendment 92 is consequential on amendment 77 and I resist it accordingly. I ask Rosemary Byrne not to move amendments 77 and 92.

The Deputy Presiding Officer: In view of the time, I will invite Dr Elaine Murray to wind up on the group this afternoon and to say at that stage whether she intends to press amendment 68. We will then decide on the other amendments in the group.

First Minister's Question Time

12:01

Cabinet (Meetings)

1. Mr John Swinney (North Tayside) (SNP): To ask the First Minister what issues will be discussed at the next meeting of the Scottish Executive's Cabinet. (S2F-784)

The First Minister (Mr Jack McConnell): At the next meeting of the Cabinet, we will discuss taking forward the partnership agreement to build a better Scotland.

Mr Swinney: Does the First Minister believe that it is undesirable to resist the loss of Scottish corporate headquarters?

The First Minister: The retention of Scottish corporate headquarters in Scotland is, in my view, extremely important for the Scottish economy, for the confidence of Scotland and for the confidence of our financial services sector. That is why it is particularly important for us to maintain the close links that we have, not just with Standard Life, in the context of yesterday's announcement, but with the Royal Bank of Scotland and HBOS. In doing that, we need to ensure that we create the kind of environment in which those companies want not only to keep their corporate headquarters in Scotland, but to expand their operations. That is exactly what we seek to achieve.

Mr Swinney: I am a bit surprised by the First Minister's answer. I refer him to a document published by his Government, which provides

"the overarching vision of the Scottish Executive"

and is entitled "The Way Forward: Framework for Economic Development in Scotland". In the section dealing with key principles, it states:

"It is ... undesirable ... to resist the loss of Scottish corporate headquarters."

Can the First Minister explain why his Government believes that it is undesirable to fight to keep corporate headquarters in Scotland? What is he going to do to change the Government's economic strategy to prepare us for the difficulties that we now face?

The First Minister: If there is a document that says that, it is wrong. If that document is the "Framework for Economic Development in Scotland", I am glad that we are updating it. If that document was agreed by the Cabinet in which I served before I was First Minister and I saw that sentence before it was published, I assure Mr Swinney that I would deeply regret that.

I want this chamber and Scotland to be in no doubt that the primary objective of the regular

meetings that I have had with the six main companies in Scotland that have their corporate headquarters in this country, and with those in other key sectors, such as the power sector and the food and drink sector, which lead the way for Scotland in their areas of business throughout the world, has been to ensure not only that they keep jobs in Scotland and remain profitable companies, but that they have their corporate headquarters in Scotland.

We cannot legislate to ensure that individual private companies keep their corporate headquarters in Scotland but we can fight to retain them and ensure that we create the right conditions to make that possible. That is why we need to have a strong, stable United Kingdom economy and, in Scotland, the best skills and infrastructure. Mr Swinney's plans for so-called financial independence for Scotland would destroy that regulatory framework and drive those corporate headquarters out of Scotland as quickly as they could go.

Mr Swinney: I do not know whether the First Minister has been reading the newspapers, but he might like to know that the Liberal Democrats also believe in fiscal independence for the people of Scotland. It is not just me who is leading the way with these innovative arguments. However, let us leave the misdirection of the First Minister's answer and get back to the core of the serious issue that I have raised.

As he always does when there is a problem with the documents that the Government produces, the First Minister has distanced himself from the document that we are talking about. He does that on all sorts of issues, but we should return to the detail of the matter. The "Framework for Economic Development in Scotland" was produced when he was a member of the Cabinet. On 6 November 2003, when he was the First Minister, the Scottish Executive issued a statement that said:

"Scottish Ministers believe that the principles of FEDS remain the right ones for economic development in Scotland, and that there is no need to re-write or re-invent any of its fundamental principles."

One of its fundamental principles is that it is

"undesirable ... to resist the loss of Scottish corporate headquarters".

All the rhetoric from the First Minister is fine. All the brave talk about defending the competitive position of Scottish companies is all very well. What matters is what the Government is doing to safeguard the position of those companies. Why does the First Minister not accept that there is a genuine competitive threat to the financial services sector in Scotland and that, unless the Scottish Parliament has the ability to put our country at a competitive advantage, we will lose out in that

competition? Will the First Minister accept that there is now a compelling need for the Parliament to have the powers to safeguard the future of our financial services sector?

The First Minister: If Mr Swinney quotes accurately from that document that was published in 2000, then it is clear that that document is wrong. Although Mr Swinney might have a smart moment today—quoting a sentence out of context—and might enjoy that point, I tell him that all the evidence shows that this is a serious situation. Some 1,000 job losses at Standard Life were announced yesterday. We have a long-term fight on our hands to retain the corporate headquarters of that company in Scotland. The making of trivial, cheap points in the chamber does not help that case at all.

There is a fundamental difference between those Liberal Democrats who support some additional taxation powers for Scotland and Mr Swinney. Mr Swinney does not support fiscal autonomy for Scotland—he supports independence for Scotland. The first thing that would happen if Scotland were to have its own employment regime, its own fiscal regime and the higher taxes and cuts in public expenditure that would result from SNP plans is that those corporate headquarters would go—and Mr Swinney knows that. That is why his party hides its policy dishonestly behind a smokescreen of fiscal autonomy.

We need to ensure not only that we have that competitive edge in Scotland, but that we have it off the back of a strong, stable United Kingdom economy that is stronger and more stable than any of our competitors' economics. Here in Scotland, the skills that are available and the growth of our financial services sector still compete well, not only with the rest of Europe, but with the rest of the world. We will continue to promote that.

Mr Swinney: Standard Life faces demutualisation because of decisions taken by the UK Financial Services Authority that undermined the position of that company. The First Minister presides over an economic strategy that says that it would be

"undesirable ... to resist the loss of Scottish corporate headquarters".

Why does the First Minister not stop ranting and raving to the Parliament and start delivering protection for the Scottish economy?

The First Minister: Mr Swinney is keen on quoting documents, so I will quote what he said yesterday:

"other countries are increasing employment in the sector by aggressively using ... powers".—[*Official Report*, 31 March 2004; c 7278-9.]

He implied that we in Scotland are not. I hear his members saying that that is true. Today they seek to run down the financial services sector in Scotland. The truth is that Ireland, the country that is most often cited by the nationalist party, has seen its financial sector employment grow at half the rate of the Scottish financial services sector over the past six years. Employment in the Scottish financial services sector is growing at twice the rate of that in Ireland. That is something that we should be proud of, that we should promote and not run down. We all know that how that rate will grow is by ensuring that Scotland remains—not just becomes—the place in all Europe with the most financial services-related graduates, with the best skills mix and where American companies have increased their investment in our financial services sector by 50 per cent in recent years. In *US Banker* magazine last year, American experts said:

“Scotland is generating the same kind of excitement as Dublin did a while back. It’s the new Ireland.”

That is where we want to be—not where Mr Swinney is—and that is where we will get to.

Prime Minister (Meetings)

2. David McLetchie (Edinburgh Pentlands)
(Con): To ask the First Minister when he next plans to meet the Prime Minister and what issues he intends to discuss. (S2F-787)

The First Minister (Mr Jack McConnell): I have no immediate plans to meet the Prime Minister.

David McLetchie: I hope that when the First Minister and the Prime Minister next meet they compare notes on the subject of inquiries. That is something about which the Prime Minister knows a thing or two.

Will the First Minister tell us what contact he or his office has had with the BBC during the past six months to persuade it to co-operate fully with the Fraser inquiry? How many meetings have been held and how many nice letters have been written, and to what end?

The First Minister will know that the Fraser inquiry expressed its disappointment at the outcome of yesterday’s vote in Parliament. In the light of that, and of the First Minister’s repeated pledges fully to support the inquiry, what does the First Minister intend to do to ensure that Lord Fraser is given access to the interview tapes on terms that are acceptable to the inquiry, rather than on terms that are dictated by the BBC?

The First Minister: In relation to contact, not just between my office and the BBC, but between the Executive and the BBC during recent months, I am not aware that any meetings have taken place

and I am not aware of any written correspondence, but there have been several attempts by senior officials in the Executive to persuade both the BBC and those who are responsible for the inquiry to get together and resolve that particular disagreement. I thought that that was in the interests of the inquiry and that it was certainly the will of the Parliament, as yesterday’s vote showed, and as a result I have sanctioned occasional—and sometimes regular—contact with both parties to try to ensure that they come together.

I am not just disappointed, but angry that that has not come about. I believe very strongly in the position that the Parliament took yesterday. I believe that the Conservative motion was a danger to democracy: for politicians to instruct independent broadcasters to provide information to them would be a dangerous step too far, except in really exceptional circumstances. I believe very strongly that the will of the Parliament, as it was clearly expressed yesterday—I remind Mr McLetchie that the Conservatives voted against it—is that the BBC should co-operate with the inquiry and allow Lord Fraser to see the tapes. That will should now be implemented by the BBC in Scotland. The BBC is damaging its own reputation by its failure to do that and it needs to co-operate—and co-operate quickly.

David McLetchie: Of course, the First Minister is not telling me anything that I do not already know or have not been calling for during the past six to eight months.

I am somewhat surprised at the limited nature of the contact between the Executive and the BBC, given the importance of the issue and the pledges that the First Minister has repeatedly made to the Parliament about the conduct of the inquiry. I remind the First Minister that on 19 June 2003 he told the Parliament:

“If, when the Parliament reviews Lord Fraser’s report, it wants to take action to supplement Lord Fraser’s interventions and assessment of any non-co-operation, it”—

that is, the Parliament—

“has the powers to do so.”—[*Official Report*, 19 June 2003; c 952-53.]

Are the powers to which the First Minister referred on 19 June the same powers under section 23 of the Scotland Act 1998 that he and his colleagues now find so unacceptable and yesterday voted against using, on a matter of so-called principle? If the BBC is judged by Lord Fraser to have failed to co-operate satisfactorily with his inquiry, will the First Minister continue to oppose the use of those powers?

The First Minister: First, I remind Mr McLetchie—because none of us should ever

forget this—that the position that I have just outlined and that the Parliament supported yesterday is not the position that he has been calling for in recent weeks. He has been calling on the Parliament to instruct the BBC to hand over confidential tapes to politicians so that politicians can decide what to do with them.

That would be dangerous in a democracy. The worst memories of Thatcherism recall such a scenario. In the new democracy in Scotland we should stand firm against such a populist—in Mr McLetchie's mind—but entirely unthinking use of an important power. It is one thing for this Parliament to have a power, but another thing for it to use it wisely. I hope that this Parliament will use its powers wisely. If it ever uses the power in section 23 of the Scotland Act 1998, it must use it with great care and attention, and with the absolute principle in mind that a precedent created here could be far more dangerous further down the line in someone else's hands.

David McLetchie: What is the answer to the question? I repeat: if the BBC is judged by Lord Fraser to have failed to co-operate satisfactorily with his inquiry, will the First Minister still oppose the use of powers that are available to this Parliament? Will he still do that—yes or no?

The First Minister: I think that I made my position very clear: any use of those powers at any stage should be considered very carefully by this Parliament. Unlike Mr McLetchie and one or two other members in the chamber—who should think very carefully about how they conduct themselves in this whole process—I have said consistently, since the beginning of the inquiry, that none of us should prejudge the inquiry's outcome. We should support Lord Fraser in his attempts to ensure that he gets all the facts into his report and that he gets the right analysis that allows us to learn the right lessons for the future. He continues to have my full support in trying to achieve that. I am not going to prejudge him, pre-empt him or try to influence him at this stage.

The Presiding Officer (Mr George Reid): We have an urgent constituency question. I call Dennis Canavan.

Dennis Canavan (Falkirk West) (Ind): In view of the fact that the Mayflower Corporation went into administration yesterday with a resultant threat to around 1,000 jobs in my constituency, will the First Minister contact the administrator and any prospective buyer to see what the Scottish Executive can offer by way of assistance or advice? When I meet management and trade union representatives at TransBus International tomorrow morning, can I convey to them an assurance that the First Minister will do everything possible to try to save the jobs of the workers at Falkirk and Larbert, who make such an important

contribution, not just to the local economy but to the economy of Scotland as a whole?

The First Minister: I would want Dennis Canavan to convey my absolute support to the work force, which does not deserve to be affected by the way in which this company has apparently been managed over recent times. The work force has converted the company from what was part of the old bus system in Scotland into a modern international company that sells an excellent product at a competitive rate on the worldwide market. The company is a successful part of the Scottish manufacturing industry today and we need every part of that manufacturing industry that we have. We will give every support that we can, and we will make every intervention that we can, to ensure the continued viability and success of the work that takes place on the site.

I understand that Deloitte & Touche has been appointed as the administrator. We are already making contact with Deloitte & Touche to offer any assistance.

Gangmasters

3. Richard Baker (North East Scotland) (Lab): To ask the First Minister what action is being taken to ensure that the activities of gangmasters are properly regulated. (S2F-795)

The First Minister (Mr Jack McConnell): We co-operate with the actions of the different United Kingdom Government departments that take the lead in this area. We are currently participating in discussions at a UK level to address the issue of tightening controls over gangmasters. We support in principle legislative proposals requiring gangmasters to be licensed.

Richard Baker: The First Minister will be aware of recent arrests made by Grampian police in Aberdeen and Fraserburgh as a result of investigations into illegal activities by gangmasters. Does the First Minister agree that, although some businesses, including fish processing businesses, have genuine recruitment problems, resorting to the use of illegal labour is not the answer? Does he agree that the measures proposed in Jim Sheridan's private member's bill at Westminster represent a significant step forward in regulating the work of gangmasters and does he agree that, although we welcome people coming to this country legally to work, those who are brought here illegally are too often being exploited for the benefit of unscrupulous gangmasters?

The First Minister: We should certainly come down very hard on those who are employing people who are here illegally and are exploiting them in the process. The recent actions of UK Government departments and those responsible

for pursuing those involved in such exploitation have our full support. The Executive is also involved, and where its departments can assist with that, they do so. For example, when complaints are made about agricultural wages and the exploitation of agricultural workers under those systems, our inspectors consider the circumstances and take action if required. The Executive will continue to work closely with UK Government departments on that, and it will co-operate with plans for legislation.

Brian Adam (Aberdeen North) (SNP): Have discussions been held with industry interests, such as organisations representing fish processors, to give them guidance on employing staff through agencies and on ensuring that those arrangements are legal and that the agencies are held accountable? What discussions has the First Minister had with his counterparts in Westminster to achieve that end?

The First Minister: There have recently been a number of discussions with those who represent the fish processing industry. I believe that, at about this time last year, there was a proposal for some financial support from the Government for the industry to attract more migrant labour. As a result of state aid rules, we were unable to provide that support, but the industry was able to secure support from the Sea Fish Industry Authority. The agencies that work with the industry, and the Government, are in regular contact with the industry. We would wish to give the industry every assistance in doing the right thing, and ensuring that people who come from abroad to work legally in this country are paid proper rates, are treated properly and are not exploited by intermediaries.

Mr John Home Robertson (East Lothian) (Lab): Gangmasters are not the only people who are in the business of exploiting vulnerable foreign workers. Is the First Minister aware of the situation at Monaghan Middlebrook Mushrooms at Drem, where local employees have been squeezed out and replaced by foreign workers, who are supposedly on the national minimum wage, but who have money deducted for accommodation and transport? Will the First Minister ensure that the Scottish Agricultural Wages Board intervenes to protect east European workers from exploitation and to safeguard the jobs of local staff? Will he support the efforts of the Transport and General Workers Union to represent all the workers at Monaghan Middlebrook Mushrooms?

The First Minister: The Executive would certainly want to monitor any situation that was being drawn to its attention. If members are aware of specific instances in which there are accusations of exploitation that are not already being tackled, they should write to me, to Ross Finnie or to Allan Wilson, to ensure that action is

taken. However, the Executive prefers that the introduction of new labour from overseas is not at the expense of local people as a result of how the new labour is exploited. The best protection that people can have in those circumstances is the protection of their trade union.

Hepatitis C (Ex Gratia Payments)

4. Shona Robison (Dundee East) (SNP): To ask the First Minister whether people who contracted hepatitis C through contaminated blood products will have to waive their right to legal action in order to receive an ex gratia payment. (S2F-803)

The First Minister: No, they will not. People who receive awards from the Skipton fund will not be required to sign such a waiver.

Shona Robison: I very much welcome that response. However, what is the status of the Scottish Executive briefing paper that is referred to in a Sunday newspaper? The briefing paper reads:

"People who receive payments under the scheme will be asked to sign an undertaking not to institute proceedings against the NHS or ministers in relation to their having been infected with hepatitis C from blood, blood products or tissue received from the NHS before September 1991".

Given the alarm among those who have contracted hepatitis C, what action will the Executive take to reassure them that they will not be debarred from seeking compensation through the courts?

The First Minister: The best action to take is the action that I have just announced, which is to ensure that people will not be required to sign a waiver. Following discussions yesterday, the Minister for Health and Community Care and I have agreed to withdraw that particular document and to ensure that new guidance is circulated to those affected. Members from all parties will be pleased to know that there will be no requirement on anybody to receive the compensation, and no requirement for them to sign a waiver.

European Union Constitution (Fisheries Management)

5. George Lyon (Argyll and Bute) (LD): To ask the First Minister how the Scottish Executive will ensure that the new European Union constitution will allow proper regional fisheries management. (S2F-800)

The First Minister (Mr Jack McConnell): Regional fisheries management is already developing under the common fisheries policy and does not need a specific provision in the new EU constitution to do so. The Executive and the UK Government are committed to developing regional management, and I would like to see the North sea regional advisory council taking a lead in

showing the way forward for the common fisheries policy.

George Lyon: Given that the Prime Minister's strategy unit and the Royal Society of Edinburgh's report on its inquiry into the future of the Scottish fishing industry endorsed devolving decision making to regional management bodies as the right way forward in delivering a sustainable future for our fishing industry, what will the Executive's next steps be to deliver that objective?

The First Minister: We are pressing first of all for the early establishment of the North sea regional advisory council and, as a result of that, we will press for further regional management measures in the period ahead. In Scotland, we can take a lead on the issue and show that regional management is the way forward inside the common fisheries policy. We will not stand on the sidelines and advocate illegal action, but will get involved in the process of democratising the common fisheries policy and establishing proper regional management in the North sea and elsewhere, because the other fisheries in Europe would also benefit from it. We will lead on that and lead in Europe, not stand on the sidelines.

Mr Ted Brocklebank (Mid Scotland and Fife) (Con): Given that the treaties of accession state that there should be equal access to a common resource for the fishermen of all member states, and that the Treaty of Amsterdam specifically rules out any decentralisation of power from Brussels back to the member states, will the First Minister accept that the only way to achieve regional management is by amending the treaties? Will he further accept that if such changes are achievable, it is equally achievable to secure treaty changes to allow the UK to regain national control of its own waters?

The First Minister: Mr Brocklebank makes those points, but we want to go further than he wants to go: we do not want to decentralise EU fisheries policy so that decisions about the North sea are made in London; we want those decisions to be made here in Scotland in conjunction with our partners in the North sea. Mr Brocklebank might want to get some change in a treaty somewhere to give more power to the UK and less power to the EU, but we want a reasonable international fisheries policy and we want it to be managed in Scotland with our partners in the North sea and elsewhere. That is our policy, and we will fight for that over the years to come. We have already taken the first steps down that road, and if Mr Brocklebank got off the sidelines and gave us a hand occasionally, we might get further.

Smoking

6. Janis Hughes (Glasgow Rutherglen) (Lab): To ask the First Minister whether there will be any

further restrictions on smoking in light of responses to the consultation on smoking in public places. (S2F-799)

The First Minister (Mr Jack McConnell): The consultation on smoking in public places will, not surprisingly, inform our decisions on the extent of any new smoke-free areas.

Janis Hughes: Does the First Minister agree that the recently produced community health profiles make grim reading on smoking-related diseases and that the introduction of legally enforceable restrictions would be one way of improving life expectancy in our most deprived communities?

The First Minister: I have no doubt that the introduction of smoke-free areas in some public places, on some forms of transport and in places of recreation, such as cinemas, over the past 20 years has contributed to the declining number of people who smoke and has therefore contributed to the declining number of people in Scotland who find themselves with some forms of cancer. That is why our anti-smoking action plan is important.

We want to make further radical progress on that matter. The introduction of further smoke-free areas will be an important component of that, and the lessons that are learned from Ireland will help to inform those decisions. The consultation in Scotland on how far we can go in practice in introducing further smoke-free areas will also be an important part of that process, and I hope, via ministers, to make further announcements to the Parliament on that in the course of the next year.

Mr Stewart Maxwell (West of Scotland) (SNP): In the past week, two surveys have shown that support for a ban on smoking in public places is running at between two thirds and three quarters in the Scottish population. All around the world, smoking bans are being successfully introduced and enforced. Figures that were published this week show that, contrary to the misinformation that was put out by the pro-smoking lobby, business in New York's bars and restaurants has increased by 9 per cent since the introduction of a smoking ban. Given all that, does the First Minister still hold to the view that he expressed in January that a ban on smoking in public places in Scotland is unworkable and impractical, or does he now accept that prohibiting smoking in certain public places is the right thing to do?

The First Minister: Stewart Maxwell and I may be getting closer by the day. At the end of his question, he said that banning smoking in some public places may be the right thing to do. I have no doubt that it would be the right thing to do. We need to make the right decision about how far to go with such measures. That is why we must have a consultation and why we must examine the

international examples. We need to ensure that the trend that Scotland is pursuing continues in years to come. Scotland has significantly fewer smokers than it had 20 years ago and significantly fewer people contracting some cancers as a result. We want to ensure that those figures are far lower 20 years from now.

The Presiding Officer: I inform members that, after due consideration, I have decided to take at 3 pm today an emergency question from Richard Lochhead on changes to the December fisheries agreement. A revised daily business list will be published to inform members of the question.

12:31

Meeting suspended.

14:00

On resuming—

Question Time

SCOTTISH EXECUTIVE

Enterprise, Transport and Lifelong Learning

Science Centres

1. Robert Brown (Glasgow) (LD): To ask the Scottish Executive what support it is giving to the science centres in the four main cities. (S2O-1884)

The Deputy First Minister and Minister for Enterprise and Lifelong Learning (Mr Jim Wallace): The science centres in the cities have all benefited from support either directly from the Executive or from the Scottish Enterprise network. The value of support provided directly by the Executive to those centres since 1999 has been around £1 million. We are currently considering what funding might be made available in future.

Robert Brown: The minister will be aware that the study that the Executive commissioned on the matter was presented to ministers on 17 March. The interest is in the long-term future of the science centres and the contribution that they can make towards encouraging science in Scotland. Will he give an undertaking to provide serious funding to meet business targets if, in return, the science centres deliver on measurable targets?

Mr Wallace: Robert Brown is correct to say that we commissioned consultancy work on the science centres. A number of issues remain to be sorted out and, following the receipt of the consultancy report, I hope that we can resolve them shortly. We indicated to the centres that we stand ready to discuss any short-term funding difficulties that they might have, but that we also want to look to the long term. Our aim is to ensure that the science centres in our four cities are preserved for the long term.

Brian Adam (Aberdeen North) (SNP): Will the future funding for the science centres recognise their different origins? I am thinking in particular of Satrosphere, which was not set up with Millennium Commission-type funding. Will the minister guarantee that the funding that the science centres receive will be granted on the same basis?

Mr Wallace: I recognise that the science centres have different origins and that a number have been supported by local authorities or by Scottish Enterprise. I have visited Satrosphere in Aberdeen on more than one occasion. Since 1999, it has received £385,000. It would be wrong to say that every science centre will get exactly the same, but

we want to consider the options in partnership with the other stakeholders before we enter into any new financial commitments with the centres. However, it is our objective to ensure that the centres—Satrosphere in particular—are maintained and have a long-term future.

Southern Distributor Route

2. John Farquhar Munro (Ross, Skye and Inverness West) (LD): To ask the Scottish Executive what discussions it has had with the Highland Council regarding the completion of the southern distributor route linking the A9 to the A82. (S2O-1866)

The Minister for Transport (Nicol Stephen): Scottish Executive officials met Highland Council officials on 13 January 2004 to discuss the council's proposals for an Inverness southern distributor route.

John Farquhar Munro: I am sure that the minister is aware that traffic in Inverness would be considerably reduced if the southern distributor road were extended to link the A82, the A9 and the A96, crossing the River Ness and the Caledonian canal. Given that the three roads are trunk roads, will he undertake to investigate how the Ness crossing can be completed in the near future with Executive support?

Nicol Stephen: As I said, officials are involved in discussions with Highland Council and, to that extent, the Executive supports the project. However, I guess that John Farquhar Munro is referring to significant financial support. The approach that we have taken is that the project is an Inverness scheme—it is being promoted by Highland Council and that section of road would be a non-trunk road, so the council would be responsible for the funding of the route. I appreciate that, in linking several trunk roads, the project could have benefits for traffic in Inverness. That is one of the reasons why roads department officials are trying to be as helpful and supportive as possible.

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): Does the minister acknowledge that the matter is of long-term significance to the people and the economy of Inverness and the Highlands, that John Farquhar Munro's point is well made and that the Scottish Executive has a responsibility to intervene and to be proactive? I draw the minister's attention to the proposed planning advice note that contains new guidelines on the crossing of waterways. It says:

"Severing or adversely affecting inland waterways should be avoided."

Will those guidelines be respected and adhered to in connection with any new development, whether trunk or non-trunk?

Nicol Stephen: I certainly agree with the guidelines. We are investing more in waterways—when I was last in Inverness, I was pleased to announce £2.2 million of extra funding for Scotland's waterways and I saw the excellent work that is being done on the canal network to bring it up to modern standards. Given the potential of our waterway network for tourism and for the whole economy of an area such as Inverness and the Highlands, I want to encourage that potential and to continue to invest in it.

I understand Fergus Ewing's point, but it is primarily for Highland Council—certainly in the first instance—to produce its detailed proposals for the funding of the road. Scottish Executive officials stand ready to offer support and advice. As I have told the Parliament before, if Highland Council wishes to produce detailed proposals, I will certainly consider them.

M8 (Renfrewshire)

3. Miss Annabel Goldie (West of Scotland) (Con): To ask the Scottish Executive whether it is intended to create any new accesses to, or egresses from, that part of the M8 that passes through Renfrewshire. (S2O-1840)

The Minister for Transport (Nicol Stephen): The Scottish Executive is considering a proposal to introduce a new junction on the M8 in Renfrewshire, but no decision has yet been made.

Miss Goldie: The minister will be aware that the application in question relates to a junction that would serve a potential residential development of 2,300 houses at the former Royal Ordnance factory site in Bishopton. Can he confirm that, in the consideration of that application, proper regard will be paid to the existing pressures on infrastructure in that community, particularly those that affect the habitations of Bishopton, Erskine and Inchinnan? Can he further confirm that, in any assessment of the application, regard will also be paid to the implications for the emergency services if, with the proposed increase in residential development, there were any reason why the M8 had to be closed and traffic diverted?

Nicol Stephen: I can. A full Scottish transport appraisal guidance assessment of the proposal is being carried out. The presumption is against a new access to a motorway of the kind that is proposed and I am sure that all members understand the reason for that. It is important that there is no proliferation of new junctions and interchanges on our motorway network, because the primary purpose of the network is to provide an efficient, non-congested, speedy and safe network. Just as we wish our trunk road network to be as non-congested as possible, it is particularly important that we achieve that in relation to our motorways.

The STAG appraisal is being examined by officials in the transport division. That work is ongoing with the consultant who is employed by the developer. Annabel Goldie's point about the wider impact on the communities in the immediate area of Bishopton will certainly be taken into consideration. On her point about the emergency services, I am almost certain that that will be part of the appraisal. I will certainly take on board the points that she has made this afternoon and ensure that her concerns are considered as part of the Executive's assessment of the issue.

Erskine Bridge Repairs

4. Trish Godman (West Renfrewshire) (Lab):

To ask the Scottish Executive what progress has been made in the action to recover the £4 million spent on repairs to the Erskine bridge following the incident involving an offshore floating structure. (S2O-1817)

The Minister for Transport (Nicol Stephen):

An action for more than £4 million was raised in the Court of Session on 28 March 2001 and is proceeding against the six companies that are considered to be responsible for the damage. The court action is progressing and a hearing is expected later this year.

Trish Godman: Of course, the minister will know that that amazing navigational blunder happened while James Douglas-Hamilton was the minister of state at the Scottish Office with responsibility for transport. However, although I can blame the Tories for a lot of things, I cannot blame James Douglas-Hamilton for that blunder.

The minister's answer has reassured me that he is not overlooking the recovery of the money. I hope that he will be able to convince me that those who are responsible will pay up. I ask him to confirm that Des McNulty and I can make a claim on the money to be spent locally on transport.

Nicol Stephen: On the final point, we will consider carefully how any funds that are recovered in due course might be used. Clearly, money has been expended on the repair work to the Erskine bridge and the amount that we will sue for will include an appropriate interest payment dating back to 4 August 1996.

The member asked about the legal situation. I am tempted to refer the issue to the Solicitor General for Scotland or the Minister for Justice in the next section of question time—"I used to be a lawyer, but I am all right now," should be my plea at this stage. However, I accept that the vagaries of the court system and the pace at which these things move forward can be frustrating for all involved. Clearly, it would be preferable for a settlement to be reached as soon as possible and I would like things to be speeded up if at all

possible. It is good news that the hearing is expected to take place this year. Six companies are involved, which I am told adds significantly to the complexity of the issue, although it explains some of the reasons for the delay. A full briefing on the issue is not something that is best delivered in this afternoon's 20-minute ministerial question time session.

European Higher Education Area

5. Fiona Hyslop (Lothians) (SNP): To ask the Scottish Executive what changes will require to be made in higher education to ensure that it is competitive in the European higher education area. (S2O-1883)

The Deputy First Minister and Minister for Enterprise and Lifelong Learning (Mr Jim Wallace): Scotland is already well placed to meet the principles of the Bologna declaration, which outlines the process that will lead to the creation of a better-integrated European higher education area by 2010. Unlike the systems in many other countries, our system will not require major reforms. We have a well-developed degree system, a national qualifications framework that is at the forefront of European developments and an innovative higher education quality assurance and enhancement scheme. I believe that those and our other strengths will continue to ensure that we are well placed to take advantage of the enhanced opportunities for co-operation and collaboration with our partners in the European higher education area.

Fiona Hyslop: Obviously, the European higher education area will be a reality by 2010. Does the minister agree that last night's vote at Westminster makes it more likely that the difficulties that the Enterprise and Culture Committee's "Report on Scottish Solutions Inquiry" warn about will come to pass? If we are to compete, particularly with universities in England, for students from the new accession states, some of whom might want to stay and contribute to Scotland's future economy, we will need more than indifference as far as investment is concerned to maintain the quality of research that would have attracted them in the first place.

Mr Wallace: I noted with great interest the result in the House of Commons yesterday. Even if the result had gone the other way, there would still have been great imperatives for us to try to make the appropriate investment in Scotland's higher education system to ensure that we can be competitive on an international stage as well as in the United Kingdom.

Mr Duncan McNeil (Greenock and Inverclyde) (Lab): Will the minister assure the chamber that any solutions that are developed to meet the challenges that our universities face will not be to

the detriment of the further education sector, which has such a vital role to play in our lifelong learning strategy?

Mr Wallace: I put on record the Executive's strong commitment to the further education system. Indeed, the figures for investment in further education since the Scottish Parliament was established are considerable. It is important to remember that 25 per cent or thereabouts of higher education in Scotland is delivered through our further education colleges. It is also important to point out that flexibility, the progress that has been made in articulation and the ladder enabling young students to move from further education into higher education are among the strengths of the Scottish higher and further education system.

Wave Power (Commercialisation)

6. Shiona Baird (North East Scotland) (Green): To ask the Scottish Executive what action it is taking to ensure that industry benefits fully from the commercialisation of wave power. (S2O-1938)

The Deputy Minister for Enterprise and Lifelong Learning (Lewis Macdonald): The forum for renewable energy development in Scotland has established a sub-group, which is preparing an action plan for the development of the marine energy industry. The sub-group will report to FREDs when it meets in Aberdeen next month.

Shiona Baird: Is the minister aware that, in Portugal, a mechanism is already in place to promote development of wave energy so that it is attractive to developers? Does he agree that swift action is required if Scotland is to compete with that and to secure the industrial activity associated with wave energy? If so, will he give members some idea of what that action might be?

Lewis Macdonald: I have said many times that Scotland's economic potential in renewable energy should not be taken for granted. I agree with Shiona Baird that we need to be aware of the competition for innovation, business and jobs—that is the reality. However, we must put that competition in context. The renewables obligation certificates that are provided will support renewable energy across a range of methods of generation and will support the creation of additional capacity without a limit to that level of capacity. The tariff support that the Portuguese are providing is for the first 20MW of wave-generated power. We will consider closely the recommendations of the marine energy group next month and I have no doubt that that is one area that the group will cover. I agree with Shiona Baird that we need to keep ahead of the competition and to be aware of other players in the field.

Murdo Fraser (Mid Scotland and Fife) (Con):

Does the minister recognise that the large-scale development of onshore wind farms is causing concern in many rural communities, including in areas of Perth and Kinross, which I represent? If we were able to encourage more wave power developments, by mechanisms such as those that the Portuguese have put in place, that would alleviate some of the public concern that, in developing onshore wind only, we are putting all our eggs in one basket.

Lewis Macdonald: I am sorry that Mr Fraser did not follow my evidence to the Enterprise and Culture Committee a couple of days ago, when I made it clear that wind power and hydroelectricity, for which the Executive is providing support, are part of a chain of new technologies that the Executive wants to encourage. The support that the Executive gives to the existing renewables technologies will help us to make Scotland an attractive location for the developers of new renewables technologies in future.

Further Education Colleges (Glasgow)

7. Pauline McNeill (Glasgow Kelvin) (Lab): To ask the Scottish Executive what progress has been made on plans to reorganise Glasgow's further education colleges. (S2O-1929)

The Deputy First Minister and Minister for Enterprise and Lifelong Learning (Mr Jim Wallace): Responsibility for the effective management and organisation of the further education sector lies with the Scottish Further Education Funding Council, which is working closely with the Glasgow colleges to ensure the optimum alignment of further education provision in the city. I expect current scoping work on the curriculum, on articulation and progression and on estates options to be completed in May this year. In addition to that work, the Glasgow College of Building and Printing and the Glasgow College of Food Technology have submitted a proposal that they be merged into a single, new institution. Ministers are currently considering that proposal.

Pauline McNeill: I declare my interest as a member of the board of management at the Glasgow College of Building and Printing.

I understand that the target date to merge the Glasgow College of Food Technology and the Glasgow College of Building and Printing is 1 August. That date is critical, so will the minister assure me that the Scottish Executive will do everything in its powers to ensure that it is met? If it is not, there will be a knock-on effect.

Further to that, does the minister accept that the proposal of a five-college merger in Glasgow has no widespread support among the colleges? Indeed, I do not support it, either. Does he agree

that we should instead consider the proposed mergers that are on the table, including that between Stow College and the Glasgow College of Nautical Studies in a magnificent new-build harbour development? I suggest that that, not a five-college merger, is the way forward.

Mr Wallace: I thank Pauline McNeill for her initiative in giving me a guided tour of the further and higher education institutions within a short walking distance of each other in her constituency, which graphically illustrated the challenges and the opportunities that are before us. I am aware that it was proposed that the new college should come about on 1 August 2004. That may be over-optimistic, given that there still has to be a consultation. Nevertheless, I understand that the colleges had built alternative dates into their planning process, which is a good example of their robust preparation and forward thinking.

As for other options in the Glasgow area, I understand that the 2001 KPMG report gave a range of realignment options. The important consideration is that any proposal should come first and foremost from the colleges. The appropriate time for ministers to consider action is when specific proposals have been submitted to us.

Robert Brown (Glasgow) (LD): I associate myself with Pauline McNeill's remarks. On a slightly different issue, has consideration been given to whether the reorganisation proposals fulfil the commitment in the Liberal Democrat manifesto and the partnership agreement regarding senior schoolchildren's access to colleges under the general umbrella of the school environment?

Mr Wallace: As Robert Brown knows, I am always anxious to fulfil Liberal Democrat manifesto commitments that have been taken forward into the partnership agreement. Members might know that, last month at Telford College, I launched a consultation document that fleshes out how we might facilitate the opportunity for pupils to experience and access vocational courses in FE colleges. I look forward to the responses to that consultation.

Justice and Law Officers

Residential Care Programmes (Young People)

1. Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): To ask the Scottish Executive, following the closure of the Airborne Initiative, what programmes it supports that provide residential care for young people and are designed to divert them from crime and addiction problems. (S2O-1924)

The Deputy Minister for Justice (Hugh Henry): Our aim is to provide the courts with a full

range of disposals that meet the needs of offenders, including residential programmes, although residential accommodation is not always the best answer.

Fergus Ewing: As the Deputy First Minister reminded us, this is an area of sensitivity between the two component factions of the Scottish Executive. In playing my habitual role as mediator and peacemaker, I commend to the warring factions in the Executive the Highland youth advantage scheme, which has operated for around four years with great success in a joint venture between the Northern constabulary and the Army. The results, following reappraisal, show that young people who took the course, having conducted a short life of minor crime, were rehabilitated. Therefore, will the minister take steps to promote the replication of the scheme in every constabulary area in Scotland, so that something that works for young people can operate throughout Scotland?

Hugh Henry: I make no comment on Fergus Ewing's ability as a mediator or peacemaker within the Scottish National Party. Given some of what happens within the party, he has a hell of a lot of work on his hands.

I accept that, where we can identify schemes that work well, we want to see that good practice spread throughout the country. In many respects, service delivery is the responsibility of local authorities, although many voluntary organisations also make a significant contribution. I will consider with interest the scheme that Fergus Ewing mentioned, but a number of schemes are already proving successful and we would hope to see them taken up throughout Scotland.

Robin Harper (Lothians) (Green): The Executive closed down Airborne when it was perfectly clear that the initiative was contributing extremely successfully to reducing reoffending by the difficult people whom it was helping. I have figures on projected savings, such as £2.25 million a year—

The Deputy Presiding Officer (Murray Tosh): You must ask a question, Mr Harper.

Robin Harper: The question is coming, Presiding Officer.

The Deputy Presiding Officer: It is not coming fast enough.

Robin Harper: Will the Executive please publish clear criteria on how it judges projects such as Fairbridge and Airborne and tell us whether it is considering closing down any other such projects?

Hugh Henry: A number of issues are involved in Robin Harper's question. First, we are continuing to fund Fairbridge for another year, although we have made it clear that we will be discussing with

it over the course of the year a rigid set of expectations. Secondly, he asked about other organisations and the withdrawal of funding. Fairbridge and Airborne were, to some extent, unusual, because most projects are funded through local authorities, not directly by the Scottish Executive—only a small number of projects are funded in that way.

I disagree profoundly with Robin Harper's view that Airborne was extremely successful; it was not and I can provide more information on that if he wishes. Airborne was not successful, which is why we took the decision to withdraw its funding. Any organisation that delivers a service to the Executive or to any other funder should expect to be asked questions about its ability to deliver on what it says it will deliver and to have its success measured. I repeat—we have said this time and again—that Airborne was very expensive, did not recruit the number of people that it should have recruited and had a high drop-out rate. We made the correct decision in reinvesting that money elsewhere.

Karen Gillon (Clydesdale) (Lab): Notwithstanding what the minister has just said, does he accept that some components of the Airborne course were successful? What steps are being taken to ensure that, in the evaluation of the course, those parts that were successful can be passed on as good practice to other projects?

Hugh Henry: Anything that can be transferred to other organisations will be considered by the voluntary and local authority organisations to see whether it can enhance their ability to deliver locally. I accept what Karen Gillon says. Some aspects of the course may well have something to add to other organisations and I am sure that those organisations will look into that. Some of them are already in discussion with staff from Airborne to see whether there are opportunities for them to use those staff and I wish them well in that.

Security (Edinburgh)

2. Mr Kenny MacAskill (Lothians) (SNP): To ask the Scottish Executive whether security will be increased at consulates and other major buildings in Edinburgh as a result of recent world events and what the cost of such increased security would be. (S2O-1869)

The Deputy Minister for Justice (Hugh Henry): The need for additional security is kept under constant review by the police, taking account of the current threat levels and intelligence. For obvious reasons, it would not be appropriate to reveal the costs that are associated with such measures.

Mr MacAskill: The minister will be aware that the costs of policing such matters in a capital city

are currently being met by the council tax payer in the city of Edinburgh, who is paying higher council tax rates yet is receiving a poorer police service. Does he accept that, as well as capital city status for the nation, Edinburgh requires capital city status for its police to ensure that matters are fully dealt with and that the council tax payer does not have to pay an undue amount and receive a poorer service?

Hugh Henry: All police forces in Scotland, including Lothian and Borders police, received additional funding in the light of the pressures that arose following the 9/11 incident. On the specific question about other pressures on Lothian and Borders police, we are waiting on information from that police force. We will reflect on that information and we will make a decision about the distribution of resources throughout police forces in Scotland taking account of various factors. We want to be fair to all the forces in Scotland. If one force, such as Lothian and Borders police, has specific needs, those needs will be factored into the decision. When we have received the information and assessed it, we will come to a decision that will be reflected in future years' funding.

Miscarriages of Justice (Aftercare)

3. Bill Butler (Glasgow Anniesland) (Lab): To ask the Scottish Executive what support is available to those freed from prison after a miscarriage of justice. (S2O-1841)

The Deputy Minister for Justice (Hugh Henry): The Executive has systems in place to provide compensation in appropriate cases for those who are freed from prison after a miscarriage of justice. Although support in adjusting to their new circumstances is generally available to ex-prisoners, ministers have decided that there should be a service that makes separate and distinct provision for those who have suffered a miscarriage of justice. The Executive is currently considering the most effective way in which to provide such a service.

Bill Butler: I am pleased to hear that the Executive has decided that distinctive support should be given to victims of a miscarriage of justice. The deputy minister will be aware that the Justice 1 Committee raised the issue with the Minister for Justice in connection with a petition from the Miscarriages of Justice Organisation. The committee, rightly, was concerned about the obvious gap in provision for people who had been wrongfully imprisoned. What type of support will be made available and who will provide the support service in Scotland?

Hugh Henry: Bill Butler is right to say that the Justice 1 Committee has considered the matter, which the Minister for Justice has reflected on; she has, indeed, replied to the committee.

The services that might be available could be advice services on benefits, which can often be complicated—and there could be added complications for people in such circumstances. Services could include advice on access to appropriate housing, on financial management and compensation and on how to manage any compensation that has been provided. A range of matters need to be carefully considered.

In some areas, individual organisations could be well placed to provide such advice, but in other circumstances, advice could come from organisations with specific expertise. We will consider such matters. I emphasise again to Bill Butler that there needs to be provision that is separate and distinct from that which is provided to ex-offenders.

Nicola Sturgeon (Glasgow) (SNP): What mechanisms are in place to ensure that any lessons that specific cases of miscarriage of justice can teach us are learned? On a more specific point, what is the Scottish Executive's position with regard to people who have been freed from prison after miscarriages of justice being charged for board and lodgings that they received while in prison for crimes that they did not commit?

Hugh Henry: On lessons that can be drawn, all parts of the justice system reflect carefully on conclusions. Obviously, we expect the police to consider how any case has been handled and the Crown Office reflects on how things have been taken forward. If there was anything upon which ministers with responsibility for justice had to reflect and decide, that would be done. We must consider carefully any miscarriages of justice that have been identified, not only for the sake of those who have suffered but to ensure that no one else suffers in such a way in the future.

On the more specific point, about the treatment of compensation, charging for board and lodgings has not been the practice in Scotland and ministers in Scotland have no intention of introducing such a practice.

Colin Fox (Lothians) (SSP): What lessons can we learn from the appalling miscarriages of justice in the cases of Joe Steele and T C Campbell, now that they are over? Can the minister provide the Parliament with any confidence that such travesties will never happen again?

Hugh Henry: My comments to Nicola Sturgeon apply equally in response to Colin Fox. We will consider carefully the outcome of the specific cases that Colin Fox mentioned and any decisions that must be made. However, it is a bit early for us to draw specific conclusions at the moment.

Public Fear of Crime

4. Miss Annabel Goldie (West of Scotland) (Con): To ask the Scottish Executive how it will deliver on its commitment to reduce the public fear of crime and to monitor it statistically. (S2O-1826)

The Deputy Minister for Justice (Hugh Henry): Under the Executive, police numbers in Scotland have reached record levels and that is delivering results. We want to make Scotland a safer place, in which people feel safer. Our aim—which we share with the police service—is to reassure the public where it is right to do so. Numerical measures help, but they are not the whole answer. Measuring fear of crime in a way that guides policy is a complex matter and we are working with the Association of Chief Police Officers in Scotland and others on how best to do that.

Miss Goldie: I thank the minister for his response and direct his attention to the justice section of the Scottish Executive's annual evaluation report, which was published yesterday. In brackets after target 1, which relates to reducing serious violent crime, is the word "SLIPPAGE". Under target 3, which is about reducing fear of crime, there is no entry. That is explained further on by the words:

"we have not supplied a 'met', 'on course' or 'slippage' assessment"

because the milestones are not available. Does the minister agree that such targets are questionable? I was comforted by what he said in his response about the continuing relevance of such targets, but would not it be far more practical and meaningful to the public to provide a much more visible form of policing in our communities, which would really reduce the fear of crime?

Hugh Henry: I am not sure that the Conservatives learned anything from our debate in the chamber yesterday. The matter was referred to again today; we heard people urging caution on politicians who try to dictate to journalists and broadcasters how they should operate. There seems to be an inference in Annabel Goldie's question that politicians should dictate to chief constables exactly how they should police local communities. There is an important distinction between what politicians do and how chief constables and police boards reflect policy in local communities.

On the wider issue about the fear of crime, a working group from the Association of Chief Police Officers in Scotland and other bodies is considering the matter and we will reflect on the outcome when that group reports back.

Johann Lamont (Glasgow Pollok) (Lab): I trust that the minister accepts that the fear of

crime is often generated by lack of confidence in the justice system, particularly among victims of crime.

The minister is aware of the dreadful circumstances around the killing in my constituency of Mr James Mitchell by his neighbour Mr Drummond. That case highlights a range of examples of the failure of the justice system to take proper account of victims' rights. I ask the minister to comment on the most recent example of that failure. Despite assurances about the right of the Mitchell family to be kept informed prior to any parole decision, the family was left to find out from a journalist on the *Evening Times* that Mr Drummond had been released on 48 hours' unsupervised leave as part of preparation for parole. That news has left the Mitchell family distraught and fearful.

Will the minister, as a matter of urgency, ensure that there is a full review of the system of preparation for parole to meet the understandable fears, not just of my constituents, but of victims and their families, that the parole arrangements do not recognise their rights and put them at further risk of crime? In monitoring the fear of crime, I suggest that a useful starting point is the victims of crime.

Hugh Henry: I share Johann Lamont's concerns about the victims of crime. That is why we have put so much emphasis on supporting not only vulnerable witnesses, but the victims of crime.

In relation to the specific distressing case that Johann Lamont describes, I can well understand how badly the family feel about that. I know that Johann Lamont has raised the matter with the Solicitor General, and Cathy Jamieson, the Minister for Justice, is also aware of it. They will both look closely at what happened and if improvements can be made, they will be made.

Alcoholic Drinks (Home Deliveries)

5. Cathy Peattie (Falkirk East) (Lab): To ask the Scottish Executive what legal restrictions exist on direct home deliveries of alcoholic drinks. (S2O-1913)

The Deputy Minister for Justice (Hugh Henry): The home delivery of alcohol requires a licence under the Licensing (Scotland) Act 1976, which restricts home deliveries in several ways. The permitted hours for purchase and delivery are 8 am to 10 pm on Mondays to Saturdays and 12.30 pm to 10 pm on Sundays. A contract for sale can be made only within those hours, but delivery can be made at other times. The seller has to keep certain records about the order and the customer, and those records must be carried by the person who delivers the order.

Cathy Peattie: Does the minister share the concern of my constituents who received a flyer

offering what it called "drinks on wheels", a home delivery service for alcohol including beers, spirits, alcopops and Buckfast? The flyer gives a freephone number that is available between 11 pm and 5 am on Friday and Saturday nights. Will the minister consider what can be done to stop that?

Hugh Henry: I deplore the illegal sale or provision of alcohol by any organisation. The company to which Cathy Peattie refers, like other companies, is required to operate within the constraints that I outlined. However, we certainly do not want to take action that would restrict responsible suppliers who arrange home deliveries. The Nicholson committee discussed the matter and we cover the issue in the draft white paper, which says that we intend to give consideration to the matter. We need to strike a balance between the use of modern technology by responsible companies and ensuring that the police and other agencies take appropriate action when people flout the law.

General Questions

Blood Donation

1. Donald Gorrie (Central Scotland) (LD): To ask the Scottish Executive how it plans to increase the level of blood donations in Scotland. (S2O-1891)

The Minister for Health and Community Care (Malcolm Chisholm): The Scottish National Blood Transfusion Service has stepped up its new donor recruitment campaign and is asking existing donors to make special efforts at this time.

Donald Gorrie: The minister is aware that there will be a big loss of donors because many of them will not be allowed to donate their blood as a result of the medical problems that have arisen. Will he assist the blood transfusion service in producing imaginative efforts to recruit donors—perhaps by using personalities, clever gimmicks or advertising—to break through to many more people and attract them to blood donation? There will be a significant problem if the gap is not filled.

Malcolm Chisholm: The Scottish National Blood Transfusion Service has put a great deal of effort this year into preparing for 5 April, when the change will take place. It already has a new advertising campaign and is conducting research for more targeted campaigns later in the year. Donald Gorrie's suggestion about the use of celebrities is a good one. As I said in my statement two weeks ago, a range of activities is taking place. For example, the better blood transfusion programme has made good progress and is now being supported by 18 transfusion practitioners.

Mrs Nanette Milne (North East Scotland)

(Con): The minister will be aware that I have lodged a motion encouraging the Scottish Parliamentary Corporate Body to make facilities available for MSPs and parliamentary staff to donate blood. To date, the motion has been supported by 34 members, which is a substantial number although it is still well short of the total. Will the minister join me in encouraging more members to sign the motion and to let their constituents know that they have done so, in order to show the public and our staff that the Parliament is prepared to take a leading role in encouraging increased levels of blood donation across the country?

Malcolm Chisholm: I am not sure that it is appropriate for me to encourage members to sign parliamentary motions. As I said in my statement two weeks ago, Nanette Milne has headed up a highly commendable initiative, which I am sure will be heeded by the parliamentary authorities. She will understand that the motion is properly for the Parliament rather than the Executive, but I commend her proposal in general terms.

Local Government Funding Formula

2. Richard Lochhead (North East Scotland)

(SNP): To ask the Scottish Executive whether the indicators that underpin the funding formula for local government are being reviewed. (S2O-1861)

The Minister for Finance and Public Services

(Mr Andy Kerr): The indicators that underpin the funding formula for local government are under periodic review. The formula is agreed with the Convention of Scottish Local Authorities and takes account of deprivation, rurality and metropolitan and island costs.

Richard Lochhead: Does the minister accept that the current funding formula hits north-east councils hard—especially Aberdeenshire Council and Aberdeen City Council—and leaves local citizens with overstretched local services? Since reorganisation, £63 million has been cut from Aberdeenshire Council's budget. Aberdeen City Council receives the lowest funding per head of any local authority on mainland Scotland.

Does the minister accept that grant-aided expenditure does not adequately take need into account given that, although the formula uses some 100 indicators, 75 per cent of the funding is distributed on the basis of 12 indicators, of which 10 are concerned with population and school rolls? That discriminates against north-east councils. Will the minister take into account the councils' campaign for a fair share of local government funding and give a guarantee that he will review the funding formula, which is clearly not working for the north-east of Scotland?

Mr Kerr: Of course, I need to live in the real world, where there is a need to ensure that resources are distributed fairly across Scotland. I will work with COSLA, which represents all local authorities in Scotland, on considering how we best distribute resources. Aberdeen City Council received an 8.5 per cent increase in 2003-04 and will receive an increase of 4.7 per cent in this coming year. It has also received £1.9 million in floor support and £6.7 million from the quality of life fund. I could go on.

The Executive has placed faith in local authorities by giving them unprecedented resources to deliver for their communities. I have always said that we are challenging but fair. I do not claim that local authorities are awash with cash and I acknowledge that they could do more if they had more money. However, we must be responsible about the amount of money that we take from the pockets of taxpayers and businesses up and down Scotland and ensure that we fund local authorities fairly and that they spend that money wisely.

Rural Schools

3. Rhona Brankin (Midlothian) (Lab): To ask the Scottish Executive what its position is on the importance of rural schools in maintaining sustainable rural communities. (S2O-1827)

The Minister for Education and Young People

(Peter Peacock): All schools make an important contribution to their communities. Over time, service provision across Scotland changes in the light of changing local circumstances. It is for local councils to determine how best to serve the needs of their diverse communities.

Rhona Brankin: The minister is aware of proposals for rural school closures in my constituency of Midlothian. I am glad that he acknowledges the important role that local schools play. Given that the Department for Education and Skills has implemented a presumption against the closure of rural schools in England, does the minister agree that there is a strong case for guidance in Scotland to be strengthened? As he knows, the Education, Culture and Sport Committee of the Scottish Parliament published a report in July 2000 that made that point to the Convention of Scottish Local Authorities and Audit Scotland, but very little progress appears to have been made in the intervening period. Will the minister address the issue as a matter of urgency, so that no rural school closes unless the closure is clearly in the best interests of educational provision in the area?

Peter Peacock: I recognise Rhona Brankin's concerns about schools in her constituency, as she has spoken to me about the issue more than once in recent weeks. She is right that, a year or

so ago, COSLA abandoned its work to produce a code of practice on such matters. We have made it clear that we are prepared and want to produce a new guide for parents that stresses what the respective roles of local authorities and ministers are. I will try to move that process along as quickly as I can.

Existing guidance makes it clear what procedures local authorities have to follow. It is a primary consideration of local authorities to have the educational interests of the whole community in mind when they make any decisions about changes in school provision. Local authorities are under a statutory duty to provide adequate and efficient education for their area and to comply with the provisions of the Standards in Scotland's Schools etc Act 2000.

The member referred to the presumption against closure that exists in England and Wales. The rural situation in England, in particular, is very different from that in Scotland. Schools with as many as 800 pupils may be regarded as rural schools, whereas in Scotland a school with 800 pupils would be regarded as a pretty big urban primary school. That said, at the time that the DFES issued its guidelines indicating a presumption against closure, Brian Wilson, who was then the minister responsible for education in Scotland, issued guidance in relation to what he called a test of proportionate advantage. That involved weighing up the financial advantages of a particular school closure against any educational disadvantages and the effect on local communities of a change in educational provision. As we all know, Brian Wilson is an extremely able and wise politician. It is right that his advice was listened to at that time. He set out a good test and local authorities should still have regard to it.

Chris Ballance (South of Scotland) (Green): In last week's debate on the closure of Borders rural schools, I put a question to the Deputy Minister for Education and Young People that he declined to answer. I would like to put the same question to the minister. Will he commit himself to making the wishes of parents a priority when making decisions about proposals for school closures that come to him?

Peter Peacock: If proposals for school closures come to me, I will take the advice of my officials, as I always do. When considering any such matters, I also take advice from Her Majesty's Inspectorate of Education. I am bound to check whether the local authority in question has followed the procedures that we have set out for it. If I find deficiencies, I will take appropriate action. The clear statutory position is that we devolve responsibility for local matters to the level at which decisions are best made. Local councils have a far better view of their communities and how they

work than I have, sitting in Edinburgh. That is the statutory position that I want to defend.

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): Given the impact that proposed closures in my constituency in the Borders and in Midlothian will have on already fragile communities, will the Education Department ensure that it works with both the Environment and Rural Affairs Department and the Development Department to stress that proposed school closures have a wider impact on rural communities?

Peter Peacock: I referred earlier to the test of proportionate advantage, which was designed specifically to guide local authorities on the considerations that they must take into account when they examine these difficult and important matters. As I said in response to Rhona Brankin's question, local authorities must weigh up the financial benefits of closure, which parents often perceive as driving the proposals, against the impact of any changes on the education of young people and on the communities that are affected. That is a good test and we should continue to apply it.

Lord James Douglas-Hamilton (Lothians) (Con): I welcome the minister's conciliatory tone on this pressing issue, but does he acknowledge the very urgent need for national guidelines that contain a presumption against the closure of rural schools? Indeed, there is all the more need for such guidelines, given the proposed mass closures of such schools in Scotland and the fact that in England only a very few schools have been closed.

Peter Peacock: I have indicated that I take these matters seriously, and I acknowledge that parents have very serious concerns. However, I must also point out that local authorities have to make very serious considerations and manage their future provision in a way that will deliver the best education for all the children under their care.

I have mentioned the test of proportionate advantage. The Scottish ministers took that position at the time that English ministers chose the route that they went down. We have clearly set out the guidance that local authorities must have regard to. For example, they must take account of parents' representations before they reach any decisions. I repeat that the test of proportionate advantage is the right one for local authorities to consider in weighing up local decisions. I do not think that, fundamentally, our guidance is in any way wrong.

Christine Grahame (South of Scotland) (SNP): I add my voice to those of members who want the new guidance to be issued urgently. The minister's own department parked the idea a year

ago, when it was said that the guidance should include a presumption against rural school closure. I heard what the minister said about the differences in England, but I think that such a presumption is essential.

Will the minister consider this matter against his own commitment in the Lib-Lab coalition document "Building Our Future" to place

"The school at the heart of the community"?

How can we support any rural school closure if the community in question opposes it? Surely the minister must issue the guidance with such a presumption soon.

Peter Peacock: I have already answered the point about the presumption in my responses to Lord James Douglas-Hamilton and Rhona Brankin. As I said, I recognise that local primary schools in rural areas play an important part in their community; however, any local primary school plays an important part in its community.

The fact is that populations in Scotland shift and change and, in certain communities, decline. As a result, local authorities are required to consider modern provision for their schools and the future provision of education in their areas. They need to take account of the issues that I have covered today—and which I am happy to cover again in the future—when reaching decisions on these matters.

Mohs Micrographic Surgery

4. Mr Kenneth Macintosh (Eastwood) (Lab): To ask the Scottish Executive whether the national health service regional planning groups have made any progress in making Mohs micrographic surgery more widely available. (S2O-1821)

The Minister for Health and Community Care (Malcolm Chisholm): Discussions on the matter are under way, but it is too soon to give a definitive answer on the proposed way forward.

Mr Macintosh: I am grateful for the minister's answer and his response to my parliamentary question on the same subject on 26 February. At that time, the minister agreed that the Mohs service should become more widely available in Scotland and stated that the national services advisory group felt that the service was too low cost and low volume to justify national organisation.

Is the minister aware that, in 2002-03, the costs of at least four national services were of the same order as the proposed cost of the Mohs service and that three national managed clinical networks supported by the national services division cost less than £50,000 a year? Moreover, is he aware that the proposed volume of the Mohs service is 200 patients per year? We should compare that

with patient figures for national services in 2002-03, which varied from 13 patients for simultaneous renal/pancreatic transplantation to 357 patients for adult cystic fibrosis.

Malcolm Chisholm: As Ken Macintosh has reminded us, the national services advisory group came to the view that the service should be developed at a regional level. I do not think that any hard-and-fast rules apply to the criteria, although I outlined some general criteria in my previous response.

The important point is that the service should be developed as quickly as possible. There are strong arguments for that to be done on a regional basis, not least of which is that we do not want a single centre for this particular form of surgery. Although a national service is often concentrated in one place in Scotland, it is more appropriate to develop the service on a regional basis in three centres.

Progress is being made on the matter. Although people might have concerns about the money, the funding basis is the same for national and regional services. The money is top-sliced from the general allocation to NHS boards. The money will be in place and I am confident that that is the right way of making progress.

Rural Post Office Network

5. Roseanna Cunningham (Perth) (SNP): To ask the Scottish Executive what assessment has been made of the social and economic impact on rural communities of the rural post office network. (S2O-1890)

The Deputy Minister for Environment and Rural Development (Allan Wilson): A number of research reports have been commissioned by the Postal Services Commission to evaluate the social and economic impact of the rural post office network on rural communities. The studies indicate that the services that are provided by post offices bring significant social and economic benefits to rural communities.

Roseanna Cunningham: The minister will be aware that the current rural post office network is safeguarded until 2006 and that the network will thereafter be under review. Does he agree that there will be an opportunity to argue for a different approach in Scotland, rather than there being a UK-wide, one-size-fits-all policy? Does he further agree that, to strengthen that argument, either the Executive or the enterprise network in Scotland must instruct a study of the network's current socioeconomic impact on fragile rural communities?

Allan Wilson: I agree that there may well be an opportunity to examine the specific needs of rural Scotland in greater detail than has perhaps happened historically. As Roseanna Cunningham

knows, we engage with the Department of Trade and Industry in an interdepartmental manner to discuss how best to revitalise the network. That does not necessarily mean that we will continue to do things as they have always been done. We want to modernise the service so that it can meet the real needs of the rural service customer. In that context, I will be pleased to consider whatever proposals may be made along those lines.

Genetically Modified Oil-seed Rape

6. Eleanor Scott (Highlands and Islands) (Green): To ask the Scottish Executive when it expects the results of farm-scale trials on genetically modified, winter-sown oil-seed rape. (S2O-1951)

The Deputy Minister for Environment and Rural Development (Allan Wilson): We expect that the results of the trials of winter-sown oil-seed rape will be published as a series of scientific papers in an independent peer-reviewed scientific journal before the end of the year.

Eleanor Scott: The minister will be aware that oil-seed rape is a species that poses a very high risk of contamination to other crops and wild plant species, and that when GM oil-seed rape has been grown in other parts of the world it has resulted in the devastation of non-GM oil-seed rape cultivation. Does he agree that that crop could never be grown in Scotland without causing similar irreversible damage to Scottish agriculture, and will the Executive use all its legal powers to prevent any future cultivation of that crop?

Allan Wilson: I understand that the Green party, having only last week described me as a puppet of the biotechnology industry, will be smarting from having organic egg on its face following the decision that was made this week by Bayer CropScience.

I agree with the Greens about the fact that winter-sown oil-seed rape is a significant crop in Scottish agriculture, with approximately 30,000 hectares being grown annually. We will, as ever, take a science-based, evidence-based, case-by-case approach to whatever the farm-scale evaluation results show. We will have those results reviewed by our scientific advisers and I will probably invite them up to Scotland so that Eleanor Scott and others can make their views known directly to them. However, as a part C consent is a prerequisite for national seed listing, as no GM part C consent has been sought for winter-sown oil-seed rape and as no national seed listing application has been received or considered, there is no prospect of the scenario that Eleanor Scott describes taking place in the immediate future.

George Lyon (Argyll and Bute) (LD): As the minister is well aware, Bayer CropScience has

decided that it will not attempt to grow Chardon LL GM maize in the UK on a commercial basis. Does he agree that that decision is a direct result of the tough, restrictive regime that the Executive proposed to introduce, while working within the law, before granting consent for the commercial growing of Chardon LL, and that the Scottish Executive will indeed deliver a voluntary GM-free Scotland?

The Deputy Presiding Officer: If you just say yes, minister, I can fit in another question.

Allan Wilson: I have much pleasure in agreeing with the member for Argyll and Bute. This must be turning into a very embarrassing exchange for the Opposition parties, but I agree that that decision is a vindication of the strict regulatory regime that we have imposed in Scotland and in the UK. As our colleagues down south have said, we make no apologies for that.

Key Workers (Housing)

7. Sarah Boyack (Edinburgh Central) (Lab): To ask the Scottish Executive whether it will establish a scheme for housing key workers in areas of high economic pressure, such as Edinburgh. (S2O-1902)

The Minister for Communities (Ms Margaret Curran): As part of its review of affordable housing, the Executive is examining whether the cost of housing in pressured markets is affecting recruitment of key workers.

Sarah Boyack: I welcome the minister's commitment to address the issue. Does she acknowledge the crisis in Edinburgh, where ranges of key workers are now being excluded from the housing market and cannot afford to live in the city? Does she recognise that the extent of our problem is such that we must not just deal with the select few but meet the needs of 1,000 households every year in Edinburgh? That is a key problem that we must address urgently.

Ms Curran: I am happy to acknowledge that we should turn our attention to the concerns of not just the elite few in Edinburgh, but the majority of the city's population and other people who might seek to live in Edinburgh and its environs. I have had many discussions with Sarah Boyack and I am sure that they will continue. I have also had discussions with City of Edinburgh Council about all the housing issues in Edinburgh. We have considered affordability, supply, the operation of the market and, as we said this morning, the operation of the planning system. Our review of affordable housing is under way and we are undertaking substantial work. I assure Sarah Boyack and members that we will consider the needs of Edinburgh in particular, as well as those of other areas of Scotland.

December Fisheries Agreement

The Deputy Presiding Officer (Murray Tosh):

This morning the Presiding Officer indicated that we would hear an emergency question at this point.

Richard Lochhead (North East Scotland) (SNP): To ask the Scottish Executive what changes to the December fisheries agreement, which are being announced by the European Commission today, will be implemented.

15:01

The Deputy Minister for Environment and Rural Development (Allan Wilson): I welcome the opportunity that has been afforded me by the Presiding Officer to inform Parliament of emerging developments on haddock management. However, I regret that I am not yet able to make a full statement on the changes that we intend to make in light of the draft regulation that was published today by the European Commission.

To avoid misunderstandings, particularly on the part of the official Opposition—which might be jumping to unwarranted conclusions; I do not know—I will briefly explain the background. The December council agreed a 49 per cent increase in the North sea haddock quota, with special permit arrangements. That was good news for Scotland's fishing fleet. Since then, I have been negotiating further improvements on the deal with the support of the industry. The Commission announced today that the Scottish fleet will have greater flexibility to fish its haddock quota in home waters, with a more generous quota for those who fish inside the associated cod protection area. That means that there will be a smaller cod protection area and a change in the ratio of quota that may be caught outside to that which may be caught inside the area from 80:20 to 65:35. That will allow the fleet to access the additional haddock quota more easily. The industry asked for that and we have delivered it.

However, the discussions continue. My officials are in Brussels today to finalise the deal. It would be premature and potentially unhelpful to make a full statement before the deal is concluded, but I am hopeful that we will achieve further improvements on the Commission's statement. I will make a statement on the details and the implications for the industry as soon as possible—perhaps tomorrow—once the negotiations are complete.

I regret that, because of the recess, I will not be able to make a statement in Parliament, but I intend to inform members and to write to the convener of the relevant committee and the party spokespersons on fisheries.

Richard Lochhead: I thank the minister for his helpful statement. I also welcome at long last the first breakthrough since the disastrous fishing deal that was signed more than three months ago.

I particularly welcome the spectacular climbdown by ministers who were persuaded by the fishing communities to go and renegotiate a deal that ministers originally labelled a triumph for Scotland. Today, our fishing communities have taken a step forward, but I hope that the minister accepts that there is a long way to go. I have three specific questions for him.

First, what will happen between now and when the proposals make their way onto the statute book, which I understand might not be until mid to late April? Will the fleet that is currently at sea be able to land its hauls of white fish and the prawn fleet's bycatches at the end of this week and onwards, given that they have been informed that changes are to be made? They should not have to dump those stocks overboard.

Secondly, will the minister reassure members and our fishing communities that he is pushing for more time at sea for the fleet? The fleet needs time and space. Today's announcement is about more space at sea, but the fleet needs time to catch the quotas, otherwise it is no further forward.

Thirdly, will the minister give an insight into the nature of the other changes to the deal that he is negotiating? He says that the EC's statement today does not fully reflect the negotiations that he is pursuing. Will he shed some light on the other areas that are up for negotiation?

Allan Wilson: I had hoped for a more mature response from the SNP fisheries spokesman.

Mr John Swinney (North Tayside) (SNP): You said it was a good deal, minister.

Allan Wilson: I am, as ever, disappointed not only in the SNP fisheries spokesman, but in the leader of the Opposition. I had hoped that Richard Lochhead would welcome the improved catch quota arrangements and the improvements in the agreement, which the industry had been seeking. A good deal just got better.

On the other questions that Richard Lochhead asked, they are the subject of negotiation with fellow member states in Europe as we speak, and it would be completely inappropriate for me to comment on the outcome of those discussions in advance of their being concluded. However, I can say that the discussions relate to backdating of catches in the area—to which Richard Lochhead referred—and to how we will deal with haddock bycatches on nephrops boats. Those two issues were raised with me by the industry and we hope to make significant progress that will—I repeat—make a good deal better.

The Deputy Presiding Officer: I am conscious that we still have a lot of business to conclude today, but I will call Ted Brocklebank and Iain Smith.

Mr Ted Brocklebank (Mid Scotland and Fife) (Con): Does the minister accept that today's proposals—although they are welcome as far as they go, especially in relation to the new special permit that will allow nephrops fishermen to take haddock as a bycatch—are, in a sense, too little and too late? In light of the new scientific data that are referred to in today's announcement, will he accept that the science has continually lagged behind evidence from the fishermen, to the effect that cod stocks are actually in better health than the International Council for the Exploration of the Sea and others have constantly asserted?

Although I welcome the proposals on emergency aid not counting against days at sea, will that include innocent passage days spent steaming back from markets such as Peterhead to home ports in the northern isles? Does the minister accept that the trade-off of 10 regained triangles in the restricted areas against the loss of seven additional triangles does nothing for the conservation of cod, and puts the lives of fishermen at risk, as they are forced further afield, like skipper John Drever of Orkney, whose boat was seriously damaged and crew imperilled while fishing west of St Kilda on 14 March?

Allan Wilson: I welcome the member's welcome for the new, improved deal. As he said, the Commission's statement refers to another amendment that I sought and secured, which is the proposal that the time that is spent by a vessel that is subject to the days-out-of-port regime assisting another vessel that is in need of emergency aid should not be counted against the vessel's allocation. I gave a commitment on that to the Environment and Rural Development Committee, and I am pleased that it has since been delivered.

On the cod bycatch issue to which Ted Brocklebank referred, the proof of the pudding will be in the catching, so to speak. We will have the opportunity, based on the last three months' cod bycatch data, to make the case—if such a case can be substantiated—for improvements in the days-at-sea regime based on those outturn figures. I am told by the fleet that we might expect those figures to be favourable, although it remains to be seen whether they are. As Ted Brocklebank knows, the level of that cod bycatch—whether it is 5 per cent or less—ultimately determines the applicable days-at-sea regime.

We have been successful in securing flexibility within the days-at-sea regime, so that boats can take their days at sea over 12 months, rather than confine them to a 31-day period. That has given

the fleet considerable flexibility in relation to cod bycatch.

Iain Smith (North East Fife) (LD): I welcome the announcement, particularly the news regarding nephrops fishermen, which will be particularly welcomed by my constituents in Pittenweem. Does the minister agree that we have been able to negotiate the improvements to the deal only because of the constructive engagement that we had with the European Commission prior to December's council, which set the framework on which the negotiations could be held? Does he agree that we would not have been able to get today's deal had we followed the policies of Mr Lochhead or Mr Brocklebank?

Allan Wilson: I agree fundamentally. That issue formed part of the discussions that I had with Commissioner Franz Fischler when I was in Brussels. It is important that we accept that we are part of the European Union and, despite the protestations of the nationalists and the Tories, we are not about to leave the European Union. The common fisheries policy requires to be reformed to look after the interests of Scottish fishermen.

I agree that we need better regional management of our North sea fishery, but that does not mean that I endorse the policy of the nationalists and the Tories, which is that we can somehow make the process better for fishermen by leaving the common fisheries policy. To be frank, that is nonsense.

Stewart Stevenson (Banff and Buchan) (SNP): On a point of order, Presiding Officer. When emergency questions are dealt with in future, will you consider telling members how much time you intend to allow so that members can adjust the length of their questions to allow other members who have vital constituency interests to ask theirs?

The Deputy Presiding Officer: That is a fair point and I am happy to reflect on it for the future. We do not hear many emergency questions, but we have a busy agenda today and I tried to shoehorn in as many questions as I could. I think that Mr Wilson will speak to you later.

Education (Additional Support for Learning) (Scotland) Bill: Stage 3

Resumed debate.

15:11

The Deputy Presiding Officer (Murray Tosh): We now return to the Education (Additional Support for Learning) (Scotland) Bill. We are at the conclusion of group 8 of amendments. I call Dr Elaine Murray to respond to the debate and to say whether she intends to press amendment 68.

Lord James Douglas-Hamilton: On a point of order, Presiding Officer.

The Deputy Presiding Officer: Before you do so, Dr Murray, I have a point of order from James Douglas-Hamilton.

Lord James Douglas-Hamilton: I would be grateful if you would confirm that the reasoned amendment to the motion to pass the bill that I lodged will be voted on, given that the revised business bulletin did not include that amendment.

The Deputy Presiding Officer: There is no problem. The amendment has been accepted and is in the business bulletin. It will be voted on later this afternoon.

I call Dr Murray.

Dr Murray: Thank you Presiding Officer—that is third time lucky.

I am not convinced that the effect of Executive amendment 38 would be identical to the effect of amendment 68. However, the minister's comments this morning and during the stage 2 debate make his intention clear; that planning for transition should be undertaken at least 12 months before a young person leaves school. I wonder whether that message might be reinforced in the guidance. Considering that the minor tense change caused so much confusion and disconcertedness among the draftspersons of the bill, and given that legal documents have their own house style from which it is difficult to deviate, I accept the minister's additional assurances on the Executive's intentions and will not press amendment 68.

Amendment 68, by agreement, withdrawn.

Amendments 36 and 37 moved—[Euan Robson]—and agreed to.

Amendment 76 moved—[Ms Rosemary Byrne].

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

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Adam, Brian (Aberdeen North) (SNP)
Aitken, Bill (Glasgow) (Con)
Baird, Shiona (North East Scotland) (Green)
Ballard, Mark (Lothians) (Green)
Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
Byrne, Ms Rosemary (South of Scotland) (SSP)
Canavan, Dennis (Falkirk West) (Ind)
Crawford, Bruce (Mid Scotland and Fife) (SNP)
Cunningham, Roseanna (Perth) (SNP)
Davidson, Mr David (North East Scotland) (Con)
Douglas-Hamilton, Lord James (Lothians) (Con)
Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
Ewing, Mrs Margaret (Moray) (SNP)
Fabiani, Linda (Central Scotland) (SNP)
Fox, Colin (Lothians) (SSP)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Gallie, Phil (South of Scotland) (Con)
Gibson, Rob (Highlands and Islands) (SNP)
Goldie, Miss Annabel (West of Scotland) (Con)
Grahame, Christine (South of Scotland) (SNP)
Harper, Robin (Lothians) (Green)
Hyslop, Fiona (Lothians) (SNP)
Ingram, Mr Adam (South of Scotland) (SNP)
Johnstone, Alex (North East Scotland) (Con)
Kane, Rosie (Glasgow) (SSP)
Leckie, Carolyn (Central Scotland) (SSP)
Lochhead, Richard (North East Scotland) (SNP)
MacAskill, Mr Kenny (Lothians) (SNP)
Martin, Campbell (West of Scotland) (SNP)
Marwick, Tricia (Mid Scotland and Fife) (SNP)
Mather, Jim (Highlands and Islands) (SNP)
Matheson, Michael (Central Scotland) (SNP)
Maxwell, Mr Stewart (West of Scotland) (SNP)
McFee, Mr Bruce (West of Scotland) (SNP)
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)
Mundell, David (South of Scotland) (Con)
Neil, Alex (Central Scotland) (SNP)
Robison, Shona (Dundee East) (SNP)
Scanlon, Mary (Highlands and Islands) (Con)
Scott, Eleanor (Highlands and Islands) (Green)
Scott, John (Ayr) (Con)
Stevenson, Stewart (Banff and Buchan) (SNP)
Sturgeon, Nicola (Glasgow) (SNP)
Swinburne, John (Central Scotland) (SSCUP)
Swinney, Mr John (North Tayside) (SNP)
Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
Welsh, Mr Andrew (Angus) (SNP)

AGAINST

Baillie, Jackie (Dumbarton) (Lab)
Baker, Richard (North East Scotland) (Lab)
Barrie, Scott (Dunfermline West) (Lab)
Boyack, Sarah (Edinburgh Central) (Lab)
Brankin, Rhona (Midlothian) (Lab)
Brown, Robert (Glasgow) (LD)
Butler, Bill (Glasgow Anniesland) (Lab)
Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Curran, Ms Margaret (Glasgow Baillieston) (Lab)
Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
Eadie, Helen (Dunfermline East) (Lab)
Ferguson, Patricia (Glasgow Maryhill) (Lab)
Gillon, Karen (Clydesdale) (Lab)
Glen, Marlyn (North East Scotland) (Lab)
Godman, Trish (West Renfrewshire) (Lab)

Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (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)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, 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)

The Deputy Presiding Officer: The result of the division is: For 50, Against 59, Abstentions 0.

Amendment 76 disagreed to.

15:15

Amendment 38 moved—[Euan Robson]—and agreed to.

Section 11—Provision of information etc on occurrence of certain events

Amendment 77 moved—[Ms Rosemary Byrne].

The Deputy Presiding Officer: The question is, that amendment 77 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)

Baird, Shiona (North East Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Kane, Rosie (Glasgow) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Martin, Campbell (West of Scotland) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 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)
 Mundell, David (South of Scotland) (Con)
 Neil, Alex (Central Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Swinney, Mr John (North Tayside) (SNP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Welsh, Mr Andrew (Angus) (SNP)

AGAINST

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marilyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)

Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (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)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (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)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, 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)

The Deputy Presiding Officer: The result of the division is: For 49, Against 61, Abstentions 0.

Amendment 77 disagreed to.

Amendment 92 moved—[Ms Rosemary Byrne].

The Deputy Presiding Officer: The question is, that amendment 92 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)

Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Kane, Rosie (Glasgow) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Martin, Campbell (West of Scotland) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 McFee, Mr Bruce (West of Scotland) (SNP)
 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)
 Mundell, David (South of Scotland) (Con)
 Neil, Alex (Central Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Swinney, Mr John (North Tayside) (SNP)
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 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

ABSTENTIONS

McNeill, Pauline (Glasgow Kelvin) (Lab)

The Deputy Presiding Officer: The result of the division is: For 51, Against 60, Abstentions 1.

Amendment 92 disagreed to.

Amendment 39 moved—[Euan Robson]—and agreed to.

After Section 11

The Deputy Presiding Officer: The next group of amendments concerns supporters and advocacy and regulations concerning tribunals.

Amendment 40, in the name of the minister, is grouped with amendments 40A, 78, 79, 57 and 58.

Euan Robson: The purpose of amendment 40 is to make provision in the bill regarding supporters and advocacy. There was much debate on the subject in committee at stage 2. The amendment will enable parents and young people to take another person, either as a supporter or as an advocate, with them to meetings with the education authority in respect of functions under the bill to support them or to make representations on their behalf. The education authority must comply unless the request is considered to be unreasonable. The amendment also makes it clear that education authorities will not be required to provide or pay for a supporter or advocate.

Following my agreement at stage 2 to consider the wording of paragraph 11(1) of schedule 1, amendment 57 will change the word “may” to “must” to make it quite clear that Scottish ministers will make rules of procedure in relation to

tribunals. Similarly, amendment 58 will make it clear that the rules of procedure on the tribunals may make provision as to who may appear on behalf of the parties as their representatives or in support of the parties who are present at the tribunals. That will also apply to witnesses.

I turn now to amendment 40A in Rosemary Byrne's name. I will resist the amendment, which attempts to remove subsection 3 from amendment 40 and to replace it with a duty on education authorities to secure the availability of advocacy services for children, young people and parents. That would mean that the responsibility for ensuring that advocacy services were available would fall to education authorities. I am opposed to that because the right of advocacy, which the amendment seeks to introduce, is not targeted so that there will be no limitation on its use. That is an important point to consider and we must be realistic about the money that will be involved.

An unqualified right to advocacy would establish a demand-led service rather than one that is driven by need, and costs would inevitably be disproportionately high. It would be misconceived to direct more funds towards a comprehensive advocacy service than to the provision of support for children and young people with additional support needs.

Although I appreciate the concern that has given rise to amendment 40A, I believe firmly that the provisions in the bill and those in amendment 40 will help to deliver a new system that parents will be able to trust. The culture that the bill aims to promote is one of collaboration. I ask members to reject amendment 40A.

I will also resist amendment 78 because it would mean that Scottish ministers would have to make additional regulations about tribunals rather than their having the power to make them if so required at some point in the future. Amendment 57 will make it clear that Scottish ministers will make rules of procedure with reference to the tribunals. Those are fundamental rules that will govern the operation of the tribunals, rather than additional regulation-making powers. I therefore ask Donald Gorrie to consider not moving amendment 78. Likewise, I will resist amendment 79 on the ground that it will be unnecessary in light of amendment 58 and I ask Donald Gorrie not to move amendment 79.

I move amendment 40.

Ms Byrne: The minister's amendment 40 is welcome because advocacy was highlighted by many witnesses to the committee. However, it is not robust enough and, as it stands, it will leave parents and young people to find a suitable supporter and to identify someone who knows the system.

The securing of independent advocacy for children and young people who have additional support needs would go a long way towards helping to minimise problems that will be created by the bill—namely, an adversarial system. Provision of independent advocacy for such children and young people would mean that parents and young people could seek advice regarding assessment, planning and appropriateness of support.

I am concerned that cost should not be an issue because access to advocacy could save money in the long term. I ask the minister to support amendment 40A. I also point out that there are already excellent groups around such as Independent Special Education Advice (Scotland), which have been providing excellent support to parents. Such groups should be supported; that is the approach that we should take towards advocacy.

I move amendment 40A.

Donald Gorrie (Central Scotland) (LD): Amendment 78 would replace a “may” with a “shall” so that the Executive shall, by regulations, make further provision. The minister has just spoken to amendment 57, which would cover the same area in schedule 1—it proposes to change a “may” into a “must”. Therefore, it would be logical for the minister to accept my amendment because one cannot have a bill that states in one place that the minister “may” do something, but states in another place that he “must” do the same thing. It would be illogical to have “may” in one place and “must” in another.

On the more substantive point, although amendment 40 proposes a welcome improvement that would help people in respect of supporters and advocacy, it will not provide for specific help with tribunals, which is the aim of amendment 57. Tribunals are difficult for a lot of people because they believe that the rows of experts, lawyers and local council officials—the opposition, as they see them—are there to bamboozle them. Parents feel that they are set up against a phalanx of alleged experts. Parents need help, so advocacy that is not necessarily paid for directly by the council, but through voluntary organisations such as those that Rosemary Byrne mentioned, would be helpful.

Amendment 78 deals specifically with support at tribunals, which the minister’s amendments do not cover. I urge Parliament to support my amendment and I ask the minister at least to indicate that he recognises the problem and will ensure that people at tribunals are given the opportunity to have proper support.

Fiona Hyslop: I, too, will support amendment 40. The amendment is a tribute to those who gave evidence to the committee at stage 1 and to the

committee. The arguments for having reference to supporters and advocacy included in the bill were well made by many of them, so I am pleased that such provision will be included in the bill. It is very good that amendment 40 seeks to give legal standing to personal advocacy.

I want to reflect on some of the other amendments in the group. With amendment 40A, Rosemary Byrne makes an important point about the need for financial support for independent advocacy; if we do not have such support, we will have an exclusive system that is based on people’s bank balances rather than on their needs.

With amendment 78, Donald Gorrie has highlighted a fundamental part of the bill. If access to a co-ordinated support plan is defined very narrowly, the ability to have one’s case about eligibility argued at the tribunal becomes crucial. If we agree to the principle of independent advocacy and support, I agree with Donald Gorrie that that principle should also apply to the tribunal. It is important that the bill should say that Scottish ministers “shall” have powers to make relevant regulations. Amendment 78 reflects the amendment on the issue that Robert Brown lodged at stage 2. He, too, was in favour of ministers being able to use their powers to ensure that access to tribunals could be expanded.

The amendments in the group are important. I welcome the inclusion in the bill of a reference to advocacy. It will be a step forward not only for the bill, but for Parliament. I hope that Parliament will support advocacy in many other bills in the future.

Lord James Douglas-Hamilton: We strongly support amendment 40—we argued for such advocacy in committee. I do not think that I need to declare an interest, because the advocacy concerned need not be provided by a Scots advocate—in any case, I am not a practising Queen’s counsel. We are happy that the minister listened to our representations and we are similarly content with amendments 57 and 58.

There is a good case to be made for the other amendments in the group. Amendments 78 and 79 ask that the Executive “shall” make regulations and that the regulations include the provision of independent advocacy at tribunals. The amendments have the support of the National Autistic Society.

On amendment 40A, I understand the minister’s argument that the provision of such advocacy could be demand led but, in committee, significant arguments were made in favour of more informality, which it was thought could lead to a saving of costs because it would avoid disputes having to go through a far more adversarial system.

I hope that the minister will consider the amendments sympathetically when he has listened to the arguments.

Robert Brown: I welcome amendment 40, which I think reflects the committee's consideration of the need for reference to advocacy to be included in the bill. Amendment 40 is successful in that respect.

With respect, I do not agree with Donald Gorrie's point about "may" and "shall". In different parts of the bill, those words refer to different things. As I read the bill, the "shall" that he wants to add refers to a broad issue, whereas the minister's "shall" refers specifically to the need for rules of procedure. It is clear that, if the tribunal is to operate, it must have rules of procedure, but it does not necessarily follow that other regulations must be made—although it is reasonably clear that, in that connection, further regulations will be made. It is a bit tautological to say that ministers "may" or "must" make regulations as they see fit.

My more substantive point relates to the requirement in amendment 40A, which in my view goes too far. Although I understand where Rosemary Byrne is coming from, her amendment does not reflect where we are at on the bill, because it would place an obligation on an education authority to make available independent advocacy to children and young people who have additional support needs. The proposed provision does not relate only to people with CSPs or to those who would be going before tribunals; it is much broader than that. I think that amendment 40A goes far too far beyond what is required.

The Administration is right to have had an eye to the resource implications of such matters, with a view to not having the whole thing sucked into the arrangements in question. The ethos of the bill is to concentrate on sorting out the problems at an early stage.

15:30

Mr Macintosh: I join colleagues in warmly welcoming the Executive's lodging of amendment 40. The point about advocates and supporters was well made by witnesses and I thank them for that. Thanks should also go to the Executive for showing us that it has listened to the evidence and arguments, as it did throughout the bill, and that it will amend the bill where necessary.

The subject of amendment 40 was flagged up in particular by young people who gave evidence to the committee. I was conscious that the most crucial element in the bill for them was that they would be able to have a supporter who would help them at the different stages of the decision-making process. The issue was also flagged up by parents. Clearly, given the absence of legal aid at

the tribunal, advocacy is of particular concern at the tribunal stage. The point of having advocacy and support throughout the process is that it could reduce the chances of a dispute's reaching the tribunal stage.

I was slightly concerned to read in proposed new subsection (3) that

"Nothing in subsection (1) is to be read as requiring an education authority to provide or pay for a supporter or advocate."

That is a rather bald statement, which some local authorities might interpret as meaning that they should not pay in any circumstances. I hope that that will not be the case. That said, Rosemary Byrne has gone slightly too far in her prescriptive amendment 40A.

As I argued in committee, there will always be limited resources. Despite the fact that we have had an increase in resources, that will always be the case. We should not divert resources from front-line services. I give a warm welcome to the Executive's amendment 40.

Christine Grahame (South of Scotland) (SNP): I support amendments 40, 40A, 78 and 79 in the group. I will speak to amendment 40A and the issue of resources, in particular. It is welcome to see the recognition of the importance of advocacy for parents who find themselves in situations of stress and difficulty against professionals.

However, we have an example in Independent Special Educational Advice (Scotland). The minister has received a letter that was signed by Donald Gorrie, Margo MacDonald, Dennis Canavan, Lord James Douglas-Hamilton, Rosemary Byrne and me, which asked him to examine that parent-led advocacy service, which is essential to the very work that is covered in the bill. I hear the cries about funding and resources that have been made in the chamber today; but for the want of £20,000, however, ISEA could have continued in the job that it does at present. I ask the minister when the group of members who signed the letter will receive a substantive reply. I point out that ISEA ran out of funds yesterday.

Rhona Brankin: Like many other colleagues, I congratulate the Executive on including advocacy in the bill. That it has done so moves us towards the position that the committee took in its scrutiny of the bill. We know that legislation in this area can be complex and that it is difficult for parents and young people to negotiate their way through the system. The bill is predicated on finding solutions to barriers to learning. The bill will put in place mediation, advocacy and dispute resolution, all of which are important. They represent recognition of some of the difficulties that can be faced by parents and young people in making their cases. I

urge colleagues to support amendment 40 and to vote against amendment 40A, which is simply not practicable.

Robin Harper: I congratulate the Executive on amendment 40, which I will support, and I want to talk briefly to Rosemary Byrne's amendment 40A. The purpose of amendment 40A is to provide a level playing field for advocacy: it would fulfil that purpose. What it suggests is infinitely preferable to proposed new subsection (3), as set out in amendment 40. It is important that we give amendment 40A all due consideration. If the minister cannot assure us that there will be a level playing field for advocacy, I urge the chamber to vote in support of amendment 40A.

Euan Robson: I will try to pick up on all the points that have been made. I welcome members' general support for the Executive's amendment 40. As Ken Macintosh rightly said, advocates and supporters are to be available during the process to support young people and their parents in getting across their points in the circumstances in which they find themselves. The measure will also try to ensure that a number of difficult matters might not necessarily have to progress to tribunal because of the intervention of the advocate or the supporter.

There has been some misunderstanding, however, about amendment 40 because, as far as the Executive is concerned, amendment 40 would allow advocates and supporters to go to the tribunal. Amendment 40A would restrict local authorities too much. It says that they "must" provide advocacy, and there is therefore a loss of flexibility. Ken Macintosh made an important point about the fact that proposed new subsection (3) exists so that an education authority does not need to provide or pay for a supporter or advocate. It is there precisely because of the point that Ken made at stage 2, which is that the Executive wants to ensure that resources are put in to the services rather than advocacy.

I turn briefly to the point that Christine Grahame made about ISEA. As we announced at stage 2, the Executive has made—and will make—extra resources available for advocacy. On the letter about ISEA, I will check to see where that has got to; however, ISEA can apply for some of the new funds that will be made available. On Donald Gorrie's point about alleged inconsistency between "must" and "may", Robert Brown hit the nail on the head perfectly in that there are different points in the bill where the words apply. Ministers must make rules for the procedure of the tribunal, but there may not be circumstances in which we need go further and make regulations in the context of amendment 78. Therefore "may" is used, rather than "must", because the suggested circumstance may not arise.

Ms Byrne: The minister is missing the point regarding cost, and is getting too tied up in the idea that authorities must provide. As Christine Grahame said, £20,000 a year for ISEA is not a huge amount of money and such practice could be mirrored in different local authorities. A small amount would provide support to many parents who might struggle to get the support that they require. Good advocacy is what witnesses at the Education Committee wanted—it is what many organisations want. The minister needs to listen. I hope that members will support amendment 40A, because it is important for parents, organisations and others.

The Deputy Presiding Officer: The question is, that amendment 40A be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Baird, Shiona (North East Scotland) (Green)
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 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)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, 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)

The Deputy Presiding Officer: The result of the division is: For 53, Against 60, Abstentions 0.

Amendment 40A disagreed to.

Amendment 40 agreed to.

Section 16—Mediation services

Amendment 41 moved—[Euan Robson]—and agreed to.

Section 17—Dispute resolution

The Deputy Presiding Officer: We come to group 10, which is on dispute resolution. Amendment 42, in the name of Lord James Douglas-Hamilton, is grouped with amendments 44 and 45.

Lord James Douglas-Hamilton: On the impartiality of dispute resolution, it seems important to have a procedure in which the persons involved in obtaining the resolution should not have been party directly or indirectly to the dispute at an earlier stage. Having firewalls is surely a sensible way of dealing with the issue and has the support of a number of charities in the field.

The issue is this: if a parent is in dispute with the education department over the services being delivered to his or her children, the dispute should be reviewed by personnel from another department of the local authority, at the very least. The impression was given at stage 1 that the position would be clarified at stage 2, but it appears that the system to be introduced is likely to be left to regulations that are not currently before us.

The important principle involved here is natural justice—namely that nobody is likely to be impartial in a dispute in which he or she is involved. Therefore, in the interests of fair play, it seems essential that resolution of a dispute should be undertaken by a party who is not beholden to or associated closely with one of the parties.

The principle of independence is important. A system that preserves the integrity of the party who brings about the resolution is essential, because, like Caesar's wife, he or she must be above suspicion.

I support the Executive's amendment 45, which clarifies parents' rights.

I move amendment 42.

Euan Robson: At stage 2, I gave Lord James Douglas-Hamilton the commitment that I would consider in advance of stage 3 the wording of his amendment 230 regarding dispute resolution arrangements. Amendment 45 makes it explicit that those arrangements will not be compulsory,

will be free of charge and cannot prejudice the rights of the parents or young person to make a referral to the tribunal.

I resist amendments 42 and 44, because it is unnecessary to have in the bill what they would provide for.

Donald Gorrie: While the minister is talking about tribunals and before we vote on amendments 78 and 79, will he make it clear whether he is saying that people are allowed to have representatives with them at the tribunals and explain how that would work out?

Euan Robson: Yes. I make that clear to the member—I thought that I had done so.

As I said before, the details of dispute resolution services are still being developed and will be set out in regulations in due course, as per section 17(2). Regulations will make clear the requirements on education authorities and how dispute resolution services should operate. Importantly, the code of practice will provide further practical guidance on that.

For those reasons I ask Lord James to withdraw amendment 42 and not to move amendment 44.

Lord James Douglas-Hamilton: An important issue of principle is involved, which should be included in the bill. I do not think that issues of principle should be left to regulations. I will press amendment 42.

The Deputy Presiding Officer (Trish Godman): The question is, that amendment 42 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: I heard a no. There will be a division. [*Interruption.*] I said that I heard a no. There is a one-minute vote.

FOR

Adam, Brian (Aberdeen North) (SNP)
Aitken, Bill (Glasgow) (Con)
Baird, Shiona (North East Scotland) (Green)
Ballance, Chris (South of Scotland) (Green)
Ballard, Mark (Lothians) (Green)
Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
Byrne, Ms Rosemary (South of Scotland) (SSP)
Canavan, Dennis (Falkirk West) (Ind)
Crawford, Bruce (Mid Scotland and Fife) (SNP)
Cunningham, Roseanna (Perth) (SNP)
Curran, Frances (West of Scotland) (SSP)
Davidson, Mr David (North East Scotland) (Con)
Douglas-Hamilton, Lord James (Lothians) (Con)
Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
Ewing, Mrs Margaret (Moray) (SNP)
Fabiani, Linda (Central Scotland) (SNP)
Fox, Colin (Lothians) (SSP)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Gallie, Phil (South of Scotland) (Con)
Gibson, Rob (Highlands and Islands) (SNP)
Goldie, Miss Annabel (West of Scotland) (Con)
Grahame, Christine (South of Scotland) (SNP)

Harper, Robin (Lothians) (Green)
Hyslop, Fiona (Lothians) (SNP)
Ingram, Mr Adam (South of Scotland) (SNP)
Johnstone, Alex (North East Scotland) (Con)
Kane, Rosie (Glasgow) (SSP)
Lochhead, Richard (North East Scotland) (SNP)
MacAskill, Mr Kenny (Lothians) (SNP)
Martin, Campbell (West of Scotland) (SNP)
Marwick, Tricia (Mid Scotland and Fife) (SNP)
Mather, Jim (Highlands and Islands) (SNP)
Matheson, Michael (Central Scotland) (SNP)
Maxwell, Mr Stewart (West of Scotland) (SNP)
McFee, Mr Bruce (West of Scotland) (SNP)
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)
Mundell, David (South of Scotland) (Con)
Neil, Alex (Central Scotland) (SNP)
Robison, Shona (Dundee East) (SNP)
Scanlon, Mary (Highlands and Islands) (Con)
Scott, Eleanor (Highlands and Islands) (Green)
Scott, John (Ayr) (Con)
Stevenson, Stewart (Banff and Buchan) (SNP)
Sturgeon, Nicola (Glasgow) (SNP)
Swinburne, John (Central Scotland) (SSCUP)
Swinney, Mr John (North Tayside) (SNP)
Tosh, Murray (West of Scotland) (Con)
Welsh, Mr Andrew (Angus) (SNP)

AGAINST

Baillie, Jackie (Dumbarton) (Lab)
Baker, Richard (North East Scotland) (Lab)
Barrie, Scott (Dunfermline West) (Lab)
Boyack, Sarah (Edinburgh Central) (Lab)
Brankin, Rhona (Midlothian) (Lab)
Brown, Robert (Glasgow) (LD)
Butler, Bill (Glasgow Anniesland) (Lab)
Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Curran, Ms Margaret (Glasgow Baillieston) (Lab)
Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
Eadie, Helen (Dunfermline East) (Lab)
Ferguson, Patricia (Glasgow Maryhill) (Lab)
Gillon, Karen (Clydesdale) (Lab)
Glen, Marlyn (North East Scotland) (Lab)
Gorrie, Donald (Central Scotland) (LD)
Henry, Hugh (Paisley South) (Lab)
Home Robertson, Mr John (East Lothian) (Lab)
Hughes, Janis (Glasgow Rutherglen) (Lab)
Jackson, Gordon (Glasgow Govan) (Lab)
Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
Kerr, Mr Andy (East Kilbride) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Livingstone, Marilyn (Kirkcaldy) (Lab)
Lyon, George (Argyll and Bute) (LD)
Macdonald, Lewis (Aberdeen Central) (Lab)
Macintosh, Mr Kenneth (Eastwood) (Lab)
Maclean, Kate (Dundee West) (Lab)
Macmillan, Maureen (Highlands and Islands) (Lab)
Martin, Paul (Glasgow Springburn) (Lab)
McAveety, Mr Frank (Glasgow Shettleston) (Lab)
McCabe, Mr Tom (Hamilton South) (Lab)
McMahon, Michael (Hamilton North and Bellshill) (Lab)
McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
McNeill, Pauline (Glasgow Kelvin) (Lab)
McNulty, Des (Clydebank and Milngavie) (Lab)
Morrison, Mr Alasdair (Western Isles) (Lab)
Muldoon, Bristow (Livingston) (Lab)
Mulligan, Mrs Mary (Linlithgow) (Lab)

Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, 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)

The Deputy Presiding Officer: The result of the division is: For 51, Against 59, Abstentions 0.

Amendment 42 disagreed to.

Amendment 43 moved—[Euan Robson]—and agreed to.

Amendment 44 moved—[Lord James Douglas-Hamilton].

15:45

The Deputy Presiding Officer: The question is, that amendment 44 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: I heard a no and a yes; therefore, there will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Kane, Rosie (Glasgow) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)

MacAskill, Mr Kenny (Lothians) (SNP)
 Martin, Campbell (West of Scotland) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 McFee, Mr Bruce (West of Scotland) (SNP)
 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)
 Mundell, David (South of Scotland) (Con)
 Neil, Alex (Central Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Swinney, Mr John (North Tayside) (SNP)
 Tosh, Murray (West of Scotland) (Con)
 Welsh, Mr Andrew (Angus) (SNP)

AGAINST

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)

Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, 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)

The Deputy Presiding Officer: The result of the division is: For 51, Against 59, Abstentions 0.

Amendment 44 disagreed to.

Amendment 45 moved—[Euan Robson]—and agreed to.

Section 12—Additional Support Needs Tribunals for Scotland

Amendments 78 and 79 not moved.

Section 13—References to Tribunal in relation to co-ordinated support plan

Amendment 46 moved—[Euan Robson]—and agreed to.

The Deputy Presiding Officer: Group 11 is on the right to make reference to the tribunal. Amendment 80, in the name of Robert Brown, is grouped with amendments 81, 82, 47, 83 to 85, 48, 86, 49, 89, 50 and 56. If amendment 47 is agreed to, amendment 83 will be pre-empted. I call Robert Brown to move amendment 80 and to speak to all the amendments in the group.

Robert Brown: I will give the Parliament some background to the question of tribunals, which have been one of the important considerations in the bill. The view of the Education Committee was that there probably needed to be a move forward on the jurisdiction of the tribunal. Various different formulations were proposed by different committee members. Two amendments were agreed to, one of which is contained in section 13(3)(ba) and one of which is contained in section 14A.

Section 14A gives the Scottish ministers powers by statutory instrument to extend at a later point the jurisdiction of the tribunals. It concentrates on a number of different possibilities that might be followed once there is the light of experience to guide them. The amendment to section 13 extended the jurisdiction of the tribunal and was originally intended to go along with a sift by the president of the tribunal to restrict its jurisdiction. The concern, which is shared by ministers and members of the committee, is that we do not want to open the tribunal's jurisdiction too widely

because of the effect on resources that there would be if the tribunal had to deal with a large number of cases and was sucking in resources. I share that concern. The intention of the amendment at stage 2 was to deal with that possibility by providing a mechanism for controlling the tap, as it were.

By misadventure and for various different reasons on the part of different members of the committee, the extension of the tribunal was agreed to, but the sift—the tap mechanism—was not. Therefore, we have to return to the issue, which is what amendment 80 is designed to do. It provides for a sift mechanism for the president of the tribunal, who has to be satisfied that there is “a substantial issue” arising before the matter can go forward to an appeal. There is relatively limited scope for an appeal in that context.

Therefore, in a sense, there are two possible ways forward. One mechanism is the extension of the tribunal along with the sift. I make it clear that I do not support existing section 13(3)(ba) by itself—that would not be an acceptable mechanism to me or, I am sure, to ministers or members. With the sift, it might be acceptable.

The other mechanism is the extension of powers. The advantage of that is that it would allow the committee and the minister to consider the situation once we have some experience of the operation of the tribunal and some idea of the number of cases that will come before it. My view is that the civil servants' advice to ministers has been—as always—on the cautious side and that the number of cases that go to the tribunal will be a wee bit less than what they have suggested. Nevertheless, none of us will know what the number is until the proposals have been implemented. The difficulty is that the minister has said that even if the powers are included—as they were by the committee—the Executive would not be minded to exercise them. If that remains the position, we need something more substantive in the bill.

I am anxious to hear what the ministers say in reply to what I have said, but I want there to be some extension of the provisions in the original draft of the bill, either by way of an undertaking to use the powers or by way of a movement towards extending the tribunal's jurisdiction. My decision on the matter will very much depend on the minister's response.

I hope that I have broadly explained the position. The amendments—and amendment 80 in particular—are linked in various ways to amendments that the department has proposed to take out the amendments that were successful at stage 2. Obviously, I urge members to resist those, subject to what the minister has to say.

I am grateful for the time that I have been allowed, Presiding Officer.

I move amendment 80.

Mr Ingram: Amendment 80, like the amendments in my name in the group, aims to extend the grounds for referral to the tribunal—that is, the additional support needs tribunal and not a co-ordinated support plan tribunal. We want a tribunal that lives up to its name and is not hide-bound by the very narrow remit that the Executive has proposed. To that end, we shall oppose the Executive's attempts in amendments 47 and 50 to strip away the stage 2 improvements that the Education Committee made. Those improvements were achieved by drawing on votes from members of all the parties that are represented on the committee.

The gains that were made included extending the right of appeal to the tribunal to children with complex or multiple needs whose support could be co-ordinated by the education authority without the involvement of other agencies, thus including autistic or dyslexic children who would otherwise not have access to the tribunal. We also successfully inserted section 14A, which provides for additional ministerial powers to extend the grounds for referral to the tribunal.

Amendments 81, 82, 84 and 86 aim to extend grounds in appropriate ways from when the bill is implemented. Amendment 84 would allow parents to appeal against failure to implement a CSP, which—bizarrely—cannot be referred to the tribunal as the bill currently stands. The Executive appears to be depending on Her Majesty's Inspectorate of Education to investigate and act on such cases, but HMIE is not in the habit of following up individual cases at the time of complaint. Complaints are kept on file for reference at the next inspection. We do not want parents to be caught in the distressing limbo that might arise if they do not have the access to a tribunal that we seek.

Euan Robson: The purpose of amendment 47 is to remove section 13(3)(ba), which was inserted at stage 2. Paragraph (ba) extends the jurisdiction of the tribunals to referrals on failures of education authorities to make adequate or efficient provision to meet the needs of individuals who would require a CSP but for the fact that their needs can be met by the authority's education functions alone. That takes the tribunals far beyond what they were intended for, which would not be right, although I understand why some members might feel that it is necessary.

We all recognise that the current system for supporting children and young people who face barriers to learning is ineffective and that it needs an overhaul. That is the purpose of the bill, and that is why members agreed to its principles at

stage 1. The policy intention is to take a fresh approach and to recognise a wider range of circumstances that may mean that pupils require additional support in school to help them to develop towards their full potential. We want to encourage co-operation between all those who provide additional support and the parents, children and young people. It is recognised that disputes will arise and that there must be mechanisms for dealing with them, but there is no desire to promote an adversarial approach. Rather, we included provision for new means of resolving difficulties, such as mediation and dispute resolution. The tribunals are intended to focus on the more complicated cases in which an individual's needs are such that they require a CSP.

Section 13(3)(ba) would give a right of referral to tribunals to parents of children and young people who do not meet all the criteria for a CSP. Specifically, it would give that right to those who do not need significant additional support to be provided from outwith the authority that is exercising its educational functions. In response to concerns from the committee and others about those who do not qualify for a CSP but who have additional support needs, we placed in section 2A an explicit duty on education authorities to make adequate and effective provision for each individual's additional support needs.

Equally important are the mechanisms that are in place to allow parents and young people to raise concerns that they have about the additional support that is provided. There will be new mediation services, a dispute resolution service and, as Adam Ingram said, HMIE will monitor the authorities. The bill also provides ministers with powers of direction, and there are existing remedies such as judicial reviews and the right to make a complaint to Scottish ministers under section 70 of the Education (Scotland) Act 1980. Also, we have introduced measures in section 24A to strengthen protection for children and young people who have a record of needs. The support that they are provided with will be protected, and that protection could last for as long as four years.

I firmly believe that all those measures taken collectively offer sufficient remedy for the concerns of parents and will ensure that children receive the support that they need to progress their learning. I hope that members agree. I see no need to extend access to the tribunals to the group of children and young people that is described in section 13(3)(ba). I fully understand the fear and worry that are involved in moving to a new system, but we must guard against over-legislating, because that is not the way to address those concerns. Paragraph (ba) is not necessary, and I urge members to support amendment 47, which removes it.

Amendment 48 is consequential to amendment 47.

Amendment 50 was intended to remove section 14A, which provides ministers with powers to extend what can be referred to tribunals, but I do not intend to move that amendment or the consequential amendment 56. The Executive's intention is to consider what use should be made of the powers. We believe that it will be valuable for the Executive and the Education Committee to take stock of the practical workings of the legislation when the bill is enacted and its provisions are in operation. Such a review will provide a valuable context in which to consider the application of the new powers. We need to do that in the light of experience of the bill's provisions in action, with the attendant regulations and the code of practice, which will inform the implementation of the primary and secondary legislation.

It will also be appropriate to take account of the views of the tribunals' president in the light of his or her experience. The proper process is to involve the committee in post-legislative scrutiny of the operation of the act and the tribunal procedure. The experience gained from a period of operation of the tribunals will also be valuable in assessing the number of applications, as Robert Brown mentioned. For those reasons, I do not intend to move amendment 56.

I turn to amendments 80, 83, 85 and 89, in the name of Robert Brown. There is an element of *déjà vu*. The subsection that amendment 80 would insert is, of course, well intentioned and, on the face of it, the amendment offers a useful filter to the corresponding provision in section 13(3)(ba). However, I still have difficulties with it, not least because I see no particular need for paragraph (ba), as I have already said. Amendments 85 and 89 offer ministers the opportunity to define what may be construed as a "substantial issue". I fear that that would take us back to the debate that we are having today and that it would cause even more concern and confusion about what can and cannot be referred to the tribunals. Therefore, I invite the member to indicate what he believes would constitute "a substantial issue" that should be considered at a tribunal hearing. Clarification on that would be helpful.

However, in line with my stance on the need to remove section 13(3)(ba) and section 14A, I ask members not to support amendments 80, 83, 85 and 89.

16:00

Amendments 81, 82, 84 and 86, which are all in the name of Adam Ingram, seek to extend the jurisdiction of tribunals so that they could consider issues that relate to a range of additional support

needs. Amendments 81 and 82 would allow decisions to be referred to the tribunals where there was a dispute over the nature of a child's additional support needs or over the grounds for a refusal of an assessment. The mediation and dispute resolution arrangements that we are putting in place will be able to address such issues as they arise. The tribunals system will be required to take account of those children who have the most extensive needs, so we need to guard against its being used to adjudicate on every decision that an education authority might take. That is not the tribunals' role.

Amendment 84 aims to allow a failure to deliver the support set out in a CSP to be referred to the tribunal, but no definition is given of what marks something as a failure. The amendment would fundamentally change the role of tribunals to one of monitoring service delivery, which we debated at stage 2. As I have said repeatedly, the role of monitoring delivery is for HMIE, not the tribunals. Also, the amendment fails to accommodate other provisions in the bill and in other legislation that provide avenues whereby parents can seek resolution if they feel that education authorities are not meeting their obligations.

Amendment 86 is consequential on amendment 84.

I do not support amendment 49, in the name of Fiona Hyslop. As I said, the Executive's intention is to consider what use should be made of the powers in section 14A. It is most important that the Executive and the Education Committee take stock of the practical workings of the bill once it is enacted and comes into operation. Amendment 49 would pre-empt that by requiring that the powers be used within two years of the commencement of the bill. Moreover, the amendment would require ministers to extend to the tribunals at least those categories of decision and failure that are listed in sections 14A(1)(a) and 14A(1)(b), regardless of whether, as the system developed, users felt that that was necessary or desirable. Therefore, I ask members to reject amendment 49.

Fiona Hyslop: One of the more interesting parts of stage 3 consideration is to see some movement from the Executive during the course of the debate. As members who have paid close attention will already know—those who have not will know now—we have seen that movement, which is welcome given the essential role that the tribunals will have.

Had eligibility for CSPs been expanded, access to the tribunals would have been less important, but as that did not happen, the tribunals are a core issue. Yes, we want to provide for dispute resolution and mediation, but it will still be necessary in some instances for disputes to go to tribunals. The Executive's approach would have

been more honest if, instead of using the wider term “additional support needs tribunals”, it had called them co-ordinated support plan tribunals. Adam Ingram’s points on that issue were well made.

We have seen movement on whether the use of the tribunals should be expanded. In our stage 1 report, we said that it should. The minister has now said that he will consider using the powers. Amendment 49 would give the Executive two years to consider those powers, but then the Executive would be required to lay an order extending the powers of the tribunals to include those that are outlined in the section that was inserted by Robert Brown’s amendment at stage 2. Amendment 49 would be a good step forward. Just as the minister wants the Education Committee to take stock, I want the Executive to take stock and my amendment would give it two years to do that.

Another welcome concession that we have managed to achieve is two years’ protection for those children who currently have a record of needs. The reason that amendment 49 specifies that ministers must come back to the Parliament with an order within two years is that there is now protection on the face of the bill for children who have a record of needs to ensure that they receive a CSP assessment within that time.

Let me speak briefly to amendment 84, which is absolutely core. Regardless of any changes that might be made, if the education or health authority fails to deliver the additional support needs that are contained within an agreed CSP, the minister is saying that HMIE will sort that out. When will HMIE do that? Will that be when the child has left primary school, during the inspections that take place every three or four years? That does not make sense. Amendment 84 would ensure that, within the narrow confines that the bill provides, there would be some redress if the support needs that were agreed in a co-ordinated support plan were not lived up to. That issue, in particular, merits attention.

There has been some movement. I understand that in his summing-up Robert Brown might make some remarks about sifting, but I would like there to be a requirement that we move somewhat. Under amendment 49, the minister would have to come back within two years to extend the powers.

Dr Murray: I support Executive amendment 47, which removes a provision that was inserted at stage 2. Initially, when I had discussions with Children in Scotland and others, I had sympathy with the intentions behind lines 20 to 24 on page 14 of the bill, although I did not vote for their insertion at stage 2. I was sympathetic to the provision because I thought that it could provide reassurance to parents of children who have

records of needs but who will be ineligible for co-ordinated support plans in future. On further reflection, I believe that section 13(3)(ba) would restore to the legislation much of the uncertainty that surrounded eligibility for records of needs, which has led to postcode record-of-needs provision. It would remove the clarity of definition surrounding co-ordinated support plans that is one of the strengths of the bill.

Ministers have made it quite clear that local authorities have a duty to provide additional support for all children who need it to achieve their full educational potential. If they fail to do so, they are breaking the law and there are a number of ways in which people can get recompense, not just through HMIE. The minister has introduced further reassurance for parents of children with records of needs who will not be eligible for CSPs by introducing at stage 2 section 24A, which is much more specific and less open-ended in its definitions and intentions and is, therefore, a more robust provision.

I support amendment 47, to remove section 13(3)(ba) from the bill. If the provision is removed, the additional qualification in amendment 80 will not be required, so I urge Robert Brown to withdraw amendment 80 in favour of amendment 47.

Lord James Douglas-Hamilton: I have supported Robert Brown’s amendments, I do support them and I will continue to support them. Of far more importance, the majority of members of the Education Committee supported them.

As convener of the Education Committee, Robert Brown has lodged an extremely important amendment in amendment 80, on the right to make a referral based on a failure to make adequate or efficient provision. In my view, the amendment is altogether reasonable.

Amendment 81 would cover situations in which there is a dispute over the facts and the nature of a child’s additional support needs. Again, the amendment is altogether reasonable. Amendment 82 widens eligibility, which we support.

We are very much opposed to the minister’s attempts in amendment 47 to leave out lines on page 14 of the bill that would widen the eligibility for referral to the tribunal. I pay tribute to Robert Brown for the convincing case that he put in committee. We would be wise to follow him in adopting the theme of expanding eligibility.

I am glad that the minister will not move amendments 50 and 56, which would remove a very large section from the bill. The section was inserted on the basis that the best possible deal must be offered to children with additional support needs and that the section offered a much more comprehensive deal than the Executive was

offering at that stage. It would be a tragedy if the minister were allowed to undo the work of the Education Committee.

Amendment 84 relates to the failure of an education authority or any person identified in the plan. It is a sensible way of ensuring that the terms of a CSP are followed. Failure means failure and is pretty easy to identify when we see it. The word does not need excessive interpretation before being inserted in the bill.

Amendments 85 and 89 would empower ministers by regulations to interpret what is a substantial issue. That is an obvious safeguard in the event of unforeseen consequences.

Amendment 49 would enable ministers to extend categories of decision in respect of which a reference to a tribunal can be made. It can be very important for each individual case to be weighed on its merits, which can easily highlight exceptional circumstances that may require particular solutions that are suited to the child or young person in question. If the minister does not believe me, I recommend that he see the movie "Lorenzo's Oil", in which Susan Sarandon plays a distinguished role as the mother who knows what should be done for her child.

This group of amendments is probably the most important on which we must decide today. If the Executive is sincere about wanting to help people who have additional support needs, I hope that it will establish its good will by responding positively to Robert Brown's amendments.

Mr Macintosh: At the risk of repeating myself, I want to make it absolutely clear that I do not believe that the duties and rights in the bill depend on a CSP or access to a tribunal. The bill contains powers for all children.

That said, many parents are aware from bitter experience that a mechanism is sometimes needed to enforce their children's rights. The dispute resolution process that the Executive introduced goes some way to allaying such concerns and anxieties. If we could be sure of the numbers that would be involved, having an independent tribunal that dealt with all dispute resolution situations would undoubtedly be a less cumbersome mechanism and would have a greater logical appeal.

However, given the way in which the bill is structured, many committee members hesitated before undermining that structure by increasing the numbers that could be referred to the tribunal. Such a solution might be neater; however, as Elaine Murray pointed out, we run the risk of repeating the mistakes of the record-of-needs system. We would simply turn the useful CSP document into a process for securing resources.

As Robert Brown knows, I was very sympathetic to the idea that the president of the new tribunal should sift the numbers. However, given the minister's assurances that he will examine the impact of the bill in practice, that he will consult the president of the tribunal to hear the tribunal's views and that the Education Committee will have a post-legislative scrutiny role—which is something that we discussed at stage 2—I urge Robert Brown not to press amendment 80 and all members to support amendment 47.

Rhona Brankin: I rise to oppose the opening up of the tribunal system as set out in section 13(3)(ba) and to support the Executive's amendment 47. The decision to open up the tribunal system fundamentally shifts the bill's focus away from children who have the most complex needs and require interagency support. Indeed, it shifts the whole process towards confrontation when the bill's thrust is to seek to remove barriers to learning and to give parents and young people new rights to access mediation and dispute resolution services and, in some cases, the tribunal. Opening up the tribunal system will also shift resources away from provision for young people with additional support needs towards the system itself. As a result, I urge members to support the Executive amendments and to oppose the other amendments in the group.

Robert Brown: The debate has been very interesting. I am pleased to hear the minister's response, which, as Fiona Hyslop pointed out, moves things forward a bit.

Several members have rightly pointed out that the tribunals will deal with additional support needs, not CSPs. Indeed, that has been a slight sticking point in our approach to this issue. Moreover, the minister is right to say that the bill contains a series of what might be called bureaucratic and personal remedies. For example, section 2A, which extends the local authority's duty, brings with it the remedy of a judicial review through the courts. As a result, the bill contains a legal framework that offers individuals remedies at that particular level. Indeed, the minister was also right to say that section 70 remedies, mediation and advocacy arrangements and HMIE involvement are also available.

I have to say that I am not as cynical or as sceptical as some members are about HMIE's role. HMIE has been one of the organisations that have most impressed the Education Committee since it was set up in May. Its ability to deal with systems—which is the important issue in this case—and to find the level playing field that members have mentioned to address these matters is quite significant.

Fiona Hyslop said that the committee supported widening the tribunal's jurisdiction in its stage 1

report. However, that is not quite right. The committee actually asked the Executive to look at the issue again. Indeed, the committee's recommendation was carefully worded to obtain unanimous support from members. Nevertheless, I entirely accept that, because of issues that were raised at the time, the thrust of committee members' views was that they supported widening the tribunal's jurisdiction.

16:15

At the end of the day, it seems to me that what we have now got is an answer to the dilemma that I posed in the opening exchange in the debate on this group of amendments. There are certain ways forward, and I think that the right way forward is to look at the situation in the light of experience. I have been encouraged by the minister's response, which he read out in careful terms and which will be recorded in the *Official Report*. I accept the Executive's good faith in the matter. I also accept that the proper way to deal with the issue is to look at it in the light of experience and, in particular, to consider the views of the tribunal president and the committee. The Executive's intention to consider what use should be made of the powers so granted is an important commitment in that regard.

Against that background, I am prepared not to press amendment 80, on the understanding that the principal powers contained in existing section 14A are retained against the background of the undertakings made by ministers in that regard. Certain consequential amendments arise in both situations, but that means that I would also accept amendment 47, to delete the original amendment to section 13.

The debate has done its work. If I may say so, it has been a good example of the Parliament and the Executive working together and of the Executive responding to the concerns expressed in committee. I was grateful for Lord James Douglas-Hamilton's words of support as a loyal deputy convener, but unfortunately I cannot agree with him as to the remedy. I think that he should be responding, as I am trying to do, to the ministerial undertakings.

The Deputy Presiding Officer (Trish Godman): As Robert Brown has sought leave to withdraw amendment 80, do members agree that that amendment be withdrawn?

Members: No.

The Deputy Presiding Officer: There will be a division. The question is—

Robert Brown: With great respect, Presiding Officer, nobody has moved amendment 80.

The Deputy Presiding Officer: As you have just wound up the debate, there was an

assumption on my part that you had moved it. If you had not done so, you should not have had the right to sum up.

Robert Brown: On a point of order, Presiding Officer. I think that I should be asked to press or withdraw my amendment. As you rightly said, my indication, which I did not demur from, was that I would wish to withdraw the amendment, and that is the position, subject to the chamber's agreement. Somebody else would have to move the amendment formally if that was not the case—I think.

The Deputy Presiding Officer: That amendment has been moved. When I asked whether members agreed to your request to withdraw the amendment, I heard a yes and I heard a no, so we will go to a vote.

The question is, that amendment 80 be withdrawn. Is that agreed?

Johann Lamont (Glasgow Pollok) (Lab): On a point of order, Presiding Officer. My understanding is that if permission to withdraw an amendment is not granted, we move straight to the substance of the vote.

The Deputy Presiding Officer: You are absolutely correct. I apologise for that.

The question is, that amendment 80 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Kane, Rosie (Glasgow) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)

MacAskill, Mr Kenny (Lothians) (SNP)
 Martin, Campbell (West of Scotland) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McGregor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Mundell, David (South of Scotland) (Con)
 Neil, Alex (Central Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Swinney, Mr John (North Tayside) (SNP)
 Tosh, Murray (West of Scotland) (Con)
 Welsh, Mr Andrew (Angus) (SNP)

AGAINST

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (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)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)

Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 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)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, 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)

The Deputy Presiding Officer: The result of the division is: For 54, Against 61, Abstentions 0.

Amendment 80 disagreed to.

Amendment 81 moved—[Mr Adam Ingram.]

The Deputy Presiding Officer: The question is, that amendment 81 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Kane, Rosie (Glasgow) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Martin, Campbell (West of Scotland) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)

McFee, Mr Bruce (West of Scotland) (SNP)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Mundell, David (South of Scotland) (Con)
 Neil, Alex (Central Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Swinney, Mr John (North Tayside) (SNP)
 Tosh, Murray (West of Scotland) (Con)
 Welsh, Mr Andrew (Angus) (SNP)

AGAINST

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marilyn (North East Scotland) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (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)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 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)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, 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)

The Deputy Presiding Officer: The result of the division is: For 55, Against 61, Abstentions 0.

Amendment 81 disagreed to.

Amendment 82 moved—[Mr Adam Ingram].

The Deputy Presiding Officer: The question is, that amendment 82 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Baird, Shiona (North East Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Kane, Rosie (Glasgow) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Martin, Campbell (West of Scotland) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Mundell, David (South of Scotland) (Con)
 Neil, Alex (Central Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)

Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Swinney, Mr John (North Tayside) (SNP)
 Tosh, Murray (West of Scotland) (Con)
 Welsh, Mr Andrew (Angus) (SNP)

AGAINST

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marilyn (North East Scotland) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (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)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 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)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, 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)

The Deputy Presiding Officer: The result of the division is: For 54, Against 61, Abstentions 0.

Amendment 82 disagreed to.

The Deputy Presiding Officer: Amendment 47 was debated with amendment 80. I remind members that, if amendment 47 is agreed to, it will pre-empt amendment 83.

Amendment 47 moved—[Euan Robson].

The Deputy Presiding Officer: The question is, that amendment 47 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marilyn (North East Scotland) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (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)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)

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)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, 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)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Grahame, Christine (South of Scotland) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Kane, Rosie (Glasgow) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Martin, Campbell (West of Scotland) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Mundell, David (South of Scotland) (Con)
 Neil, Alex (Central Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Swinney, Mr John (North Tayside) (SNP)
 Tosh, Murray (West of Scotland) (Con)
 Welsh, Mr Andrew (Angus) (SNP)

The Deputy Presiding Officer: The result of the division is: For 61, Against 54, Abstentions 0.

Amendment 47 agreed to.

Amendment 93 moved—[Rhona Brankin]—and agreed to.

Amendment 84 moved—[Mr Adam Ingram].

The Deputy Presiding Officer: The question is, that amendment 84 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Baird, Shiona (North East Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Kane, Rosie (Glasgow) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Martin, Campbell (West of Scotland) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Mundell, David (South of Scotland) (Con)
 Neil, Alex (Central Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Swinney, Mr John (North Tayside) (SNP)
 Tosh, Murray (West of Scotland) (Con)
 Welsh, Mr Andrew (Angus) (SNP)

AGAINST

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (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)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 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)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, 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)

The Deputy Presiding Officer: The result of the division is: For 54, Against 61, Abstentions 0.

Amendment 84 disagreed to.

Amendment 85 not moved.

Section 14—Powers of Tribunal in relation to reference

Amendment 48 moved—[Euan Robson.]

The Deputy Presiding Officer: The question is, that amendment 48 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (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)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 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)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, 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)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Kane, Rosie (Glasgow) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Martin, Campbell (West of Scotland) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Mundell, David (South of Scotland) (Con)
 Neil, Alex (Central Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)
 Smith, Iain (North East Fife) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Swinney, Mr John (North Tayside) (SNP)
 Tosh, Murray (West of Scotland) (Con)
 Welsh, Mr Andrew (Angus) (SNP)

The Deputy Presiding Officer: The result of the division is: For 60, Against 56, Abstentions 0.

Amendment 48 agreed to.

Amendment 86 moved—[Mr Adam Ingram.]

The Deputy Presiding Officer: The question is, that amendment 86 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Kane, Rosie (Glasgow) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Martin, Campbell (West of Scotland) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Mundell, David (South of Scotland) (Con)
 Neil, Alex (Central Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Swinney, Mr John (North Tayside) (SNP)
 Tosh, Murray (West of Scotland) (Con)
 Welsh, Mr Andrew (Angus) (SNP)

AGAINST

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)

Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marilyn (North East Scotland) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (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)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 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)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, 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)

The Deputy Presiding Officer: The result of the division is: For 54, Against 61, Abstentions 0.

Amendment 86 disagreed to.

The Deputy Presiding Officer: Group 12 is on the powers of the tribunal in relation to reference. Amendment 87, in the name of Adam Ingram, is grouped with amendment 88.

Mr Ingram: Amendment 87 will extend the powers of the tribunal to ensure that it can direct anyone involved in delivering a co-ordinated support plan to fulfil their obligations. No doubt the minister will argue that such powers are implicit in the bill, but many fears have been raised during

consideration of the bill about the fact that agencies outwith the education authority will not be under the same obligation to deliver that the education authority will be under. Providing those powers explicitly in the bill will help to reassure those with such concerns. I will leave amendment 88 for my colleague Fiona Hyslop to explain.

I move amendment 87.

Fiona Hyslop: Amendment 88 would allow ministers to empower tribunals to impose sanctions on education authorities or other appropriate agencies if they fail to comply with a tribunal decision. I have concerns. Robert Brown said that somehow I was questioning the performance of HMIE, but that is not in the least true. I question its ability to examine individual cases, because it does not look at individual cases. If, in an individual case, an agency or education authority has not carried out a decision of a tribunal, the tribunal must have the power to impose some kind of sanction.

Recommendation 73 of the Education Committee's stage 1 report said that the role of HMIE should be explained. Frankly, I think that that role has not been explained. That is one of the reasons why we want to strengthen the powers of tribunals, so that they can impose sanctions if a health authority or an education authority fails to comply with their decisions. We cannot wait three or four years for a school or local authority inspection for that to happen.

16:30

Lord James Douglas-Hamilton: Amendment 87 would make it clear that tribunals could require not only authorities to take certain actions, but any person who is identified in a plan as a person by whom additional support should be provided. It is essential that the tribunals have teeth and the amendment would extend their authority.

On amendment 88, it is important that if an education authority or another agency neglects or maltreats a young person who has additional support needs, appropriate sanctions should be in place if there is a failure to comply with tribunal decisions. Amendment 88 is a worthy attempt to ensure that children who have additional support needs are properly looked after.

Euan Robson: Amendment 87 seeks to extend the tribunals' jurisdiction by giving them powers to require non-education authority providers of additional support that are named in the CSP to take action as determined by a tribunal. However, that is not necessary, because education authorities will be able to request the help of other agencies under section 19. Those agencies must comply, except in limited circumstances. It is important that a single agency takes a clear lead

in securing provision for children and young people who require additional support. That responsibility should rest with education authorities, which hold responsibility for children's education. Ministers will have powers under the bill to direct education authorities, whether on specific matters or more generally, and there will be similar powers to direct other statutory bodies that fail to comply with relevant duties. As I see no reason to extend the tribunals' powers as suggested by amendment 87, I ask members to reject it.

Similarly, amendment 88 is unhelpful. To provide the tribunals with powers to impose unspecified sanctions on education authorities and other agencies would change the nature and role of the tribunals. Other agencies will not be one of the parties at tribunals and will not have the opportunity to make representations, although they may appear as witnesses for a party. As I said, ministers have sufficient powers of direction in the unlikely event that an education authority chooses to ignore the requirements of a tribunal. It is not appropriate or necessary to hand such powers to the tribunals. Therefore, I ask members to oppose amendment 88.

Mr Ingram: We will have to agree to disagree with the minister's interpretation.

The Deputy Presiding Officer: The question is, that amendment 87 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fox, Colin (Lothians) (SSP)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Grahame, Christine (South of Scotland) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Kane, Rosie (Glasgow) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Martin, Campbell (West of Scotland) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)

Maxwell, Mr Stewart (West of Scotland) (SNP)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McGregor, 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)
 Mundell, David (South of Scotland) (Con)
 Neil, Alex (Central Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Tosh, Murray (West of Scotland) (Con)

AGAINST

Baillie, Jackie (Dumbarton) (Lab)
 Baird, Shiona (North East Scotland) (Green)
 Baker, 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)
 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)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (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, 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)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (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, Iain (North East Fife) (LD)
 Smith, 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)

The Deputy Presiding Officer: The result of the division is: For 43, Against 65, Abstentions 0.

Amendment 87 disagreed to.

Amendment 88 moved—[Fiona Hyslop].

The Deputy Presiding Officer: The question is, that amendment 88 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fox, Colin (Lothians) (SSP)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Grahame, Christine (South of Scotland) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Kane, Rosie (Glasgow) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Martin, Campbell (West of Scotland) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 McFee, Mr Bruce (West of Scotland) (SNP)
 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)
 Mundell, David (South of Scotland) (Con)
 Neil, Alex (Central Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Tosh, Murray (West of Scotland) (Con)

AGAINST

Baillie, Jackie (Dumbarton) (Lab)
 Baird, Shiona (North East Scotland) (Green)
 Baker, 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)
 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)
 Gillon, Karen (Clydesdale) (LD)
 Glen, Marlyn (North East Scotland) (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, 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)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 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, Iain (North East Fife) (LD)
 Smith, 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)

The Deputy Presiding Officer: The result of the division is: For 42, Against 66, Abstentions 0.

Amendment 88 disagreed to.

Section 14A—References to Tribunal and powers of Tribunal: further provision

Amendment 49 moved—[Fiona Hyslop].

The Deputy Presiding Officer: The question is, that amendment 49 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fox, Colin (Lothians) (SSP)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Kane, Rosie (Glasgow) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Martin, Campbell (West of Scotland) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 McFee, Mr Bruce (West of Scotland) (SNP)
 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)
 Mundell, David (South of Scotland) (Con)
 Neil, Alex (Central Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Tosh, Murray (West of Scotland) (Con)
 Welsh, Mr Andrew (Angus) (SNP)

AGAINST

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (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)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 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)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, 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)

The Deputy Presiding Officer: The result of the division is: For 51, Against 61, Abstentions 0.

Amendment 49 disagreed to.

Amendments 89 and 50 not moved.

Section 19—Other agencies etc to help in exercise of functions under this Act

The Deputy Presiding Officer: Amendment 51, in the name of the minister, is in a group on its own.

Euan Robson: Amendment 51 is a technical amendment to add the word “unduly” to section 19(5), in relation to education authorities, to make it consistent with 19(3)(b), in relation to other agencies. I thank either Elaine Murray or Fiona Hyslop, one of whom noticed the discrepancy.

I move amendment 51.

Amendment 51 agreed to.

After section 19

The Deputy Presiding Officer: Amendment 70, in the name of Rosemary Byrne, is grouped with amendment 70A.

Ms Byrne: Amendment 70 seeks to ensure that the bill is implemented evenly across the country, that all children and young people with additional support needs are provided with the same level of support regardless of where they live and that different local authorities provide services at the same level.

One of the problems with the record of needs was that the numbers varied from one local authority to another, which resulted in children and young people in one area having records while those with similar needs in other areas did not. Often, those without records of needs had more needs than those who had them. At stage 2, the minister opposed the amendment on the ground that HMIE would take responsibility for the monitoring of the bill. HMIE did not do a particularly good job of ensuring that the record-of-needs system was operated with equality and evenness across the country. We have heard over and over again in the debate today about the weaknesses of the implementation of the record-of-needs system. We should at least be finding ways to monitor the situation.

I accept amendment 70A.

In some schools, needs are met regardless of whether a record of needs has been opened. Good practice happens in those schools and I am sure that it will happen elsewhere again. However, we have to monitor the situation to ensure that that good practice is spread. That is all that the amendment is designed to do.

I move amendment 70.

Fiona Hyslop: I welcome amendment 70's introduction of the idea of monitoring the implementation of the bill. Amendment 70A suggests that we have an annual report thereafter

to revisit the issue. This would not be the first time that Parliament had asked for reports back on the implementation of an important piece of legislation. If we consider that the bill is based on good faith and trust, we have a duty and a responsibility to examine the process and the practical implementation of the bill.

Rosemary Byrne spoke about the problem of disparity in the delivery of special needs support at present. We do not want to see that revisited with the bill. The bill contains provisions on additional support needs and duties, but we remain to be convinced that the practical implementation of the bill will be equal throughout the country. It would be useful if the Parliament were able to see an annual report from HMIE because that would give some confidence that the implementation of the bill throughout the country was practical, fair and equitable.

I move amendment 70A.

Lord James Douglas-Hamilton: We support the amendments as the Parliament and the people have a right to know whether particular problems have arisen so that they can be dealt with in the best ways possible within a reasonable timescale. The amendments would ensure that Parliament is given the necessary information; if the bill works less well than the Executive anticipates, we should have the right to focus on matters that require urgent attention. If the ministers are so certain that the bill will be in the public interest, they should not be afraid of the people knowing the facts.

Robin Harper: It is essential that amendment 70 should be agreed to. There were serious weaknesses in the previous system. We have no guarantee yet that the new system will work as effectively as we all hope it will. I urge everybody to support amendment 70.

Euan Robson: I recognise the concerns that lie behind amendment 70. I share Rosemary Byrne's view that the bill should be implemented smoothly and its impact monitored over time. However, the amendment is unnecessary and the Education Committee took the same view when it considered a similar amendment at stage 2.

I assure members that the implementation of the new system that will be established by the bill will be monitored. HMIE will check implementation in each education authority area, particularly as we move from the current system to the new framework that is set out in the bill. Scottish ministers will receive advice from HMIE as the new system beds in. In particular, we shall know the use that is being made of each authority's mediation and dispute resolution arrangements. We shall know how many cases are referred to tribunals from each authority area. Such information will allow us to take action if required.

As members know, ministers have powers of direction that can be used to require any education authority to take remedial action where necessary.

In addition, education authorities and other agencies will be advised by the code of practice, which will offer guidance on minimum standards with the aim of promoting consistent good practice throughout Scotland. Our national priorities will continue to drive forward improvements in all areas of education, including support for those with additional needs. We will continue to monitor progress in that area.

I reject Rosemary Byrne's criticism of HMIE. Although amendment 70 is well intended, it would not add anything of substantial value to the range of monitoring options available to us. Indeed it would add a substantial burden instead and I just do not believe that we need it. I ask members to reject the amendment.

For the same reasons, I ask members to reject amendment 70A, which simply seeks to amend amendment 70 to make it clear that annual reports are required in that context.

Ms Byrne: I do not accept the minister's argument that the implementation of the new system will be monitored. Not everyone has access to tribunals so monitoring the system on the basis of referrals to tribunals will not work for a start. As I said earlier, it is clear that HMIE did not monitor what happened to the record of needs and we had a patchy service throughout the country. I do not know how the minister can be confident if we are to monitor the bill in the same way. I ask people to support amendment 70.

Fiona Hyslop: In the interests of time, I will not wind up.

The Deputy Presiding Officer: The question is, that amendment 70A be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
Aitken, Bill (Glasgow) (Con)
Baird, Shiona (North East Scotland) (Green)
Ballance, Chris (South of Scotland) (Green)
Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
Byrne, Ms Rosemary (South of Scotland) (SSP)
Canavan, Dennis (Falkirk West) (Ind)
Crawford, Bruce (Mid Scotland and Fife) (SNP)
Cunningham, Roseanna (Perth) (SNP)
Curran, Frances (West of Scotland) (SSP)
Davidson, Mr David (North East Scotland) (Con)
Douglas-Hamilton, Lord James (Lothians) (Con)
Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
Ewing, Mrs Margaret (Moray) (SNP)
Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
Fox, Colin (Lothians) (SSP)

Fraser, Murdo (Mid Scotland and Fife) (Con)
Gallie, Phil (South of Scotland) (Con)
Gibson, Rob (Highlands and Islands) (SNP)
Goldie, Miss Annabel (West of Scotland) (Con)
Grahame, Christine (South of Scotland) (SNP)
Harper, Robin (Lothians) (Green)
Hyslop, Fiona (Lothians) (SNP)
Ingram, Mr Adam (South of Scotland) (SNP)
Johnstone, Alex (North East Scotland) (Con)
Kane, Rosie (Glasgow) (SSP)
Leckie, Carolyn (Central Scotland) (SSP)
Lochhead, Richard (North East Scotland) (SNP)
MacAskill, Mr Kenny (Lothians) (SNP)
Martin, Campbell (West of Scotland) (SNP)
Marwick, Tricia (Mid Scotland and Fife) (SNP)
Mather, Jim (Highlands and Islands) (SNP)
Matheson, Michael (Central Scotland) (SNP)
Maxwell, Mr Stewart (West of Scotland) (SNP)
McFee, Mr Bruce (West of Scotland) (SNP)
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)
Mundell, David (South of Scotland) (Con)
Neil, Alex (Central Scotland) (SNP)
Robison, Shona (Dundee East) (SNP)
Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
Scanlon, Mary (Highlands and Islands) (Con)
Scott, Eleanor (Highlands and Islands) (Green)
Scott, John (Ayr) (Con)
Stevenson, Stewart (Banff and Buchan) (SNP)
Sturgeon, Nicola (Glasgow) (SNP)
Swinburne, John (Central Scotland) (SSCUP)
Swinney, Mr John (North Tayside) (SNP)
Tosh, Murray (West of Scotland) (Con)
Welsh, Mr Andrew (Angus) (SNP)

AGAINST

Baillie, Jackie (Dumbarton) (Lab)
Baker, Richard (North East Scotland) (Lab)
Barrie, Scott (Dunfermline West) (Lab)
Boyack, Sarah (Edinburgh Central) (Lab)
Brankin, Rhona (Midlothian) (Lab)
Brown, Robert (Glasgow) (LD)
Butler, Bill (Glasgow Anniesland) (Lab)
Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Curran, Ms Margaret (Glasgow Baillieston) (Lab)
Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
Eadie, Helen (Dunfermline East) (Lab)
Ferguson, Patricia (Glasgow Maryhill) (Lab)
Gillon, Karen (Clydesdale) (Lab)
Glen, Marilyn (North East Scotland) (Lab)
Gorrie, Donald (Central Scotland) (LD)
Henry, Hugh (Paisley South) (Lab)
Home Robertson, Mr John (East Lothian) (Lab)
Hughes, Janis (Glasgow Rutherglen) (Lab)
Jackson, Gordon (Glasgow Govan) (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)
Macdonald, Lewis (Aberdeen Central) (Lab)
Macintosh, Mr Kenneth (Eastwood) (Lab)
Maclean, Kate (Dundee West) (Lab)
Macmillan, Maureen (Highlands and Islands) (Lab)
Martin, Paul (Glasgow Springburn) (Lab)
McAveety, Mr Frank (Glasgow Shettleston) (Lab)
McCabe, Mr Tom (Hamilton South) (Lab)
McMahon, Michael (Hamilton North and Bellshill) (Lab)
McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)

McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 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)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, 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)

The Deputy Presiding Officer: The result of the division is: For 52, Against 59, Abstentions 0.

Amendment 70A disagreed to.

16:45

The Deputy Presiding Officer: The question is, that amendment 70 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Kane, Rosie (Glasgow) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)

Martin, Campbell (West of Scotland) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McGregor, 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)
 Mundell, David (South of Scotland) (Con)
 Neil, Alex (Central Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Swinney, Mr John (North Tayside) (SNP)
 Tosh, Murray (West of Scotland) (Con)
 Welsh, Mr Andrew (Angus) (SNP)

AGAINST

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Gordon (Glasgow Govan) (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)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 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)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, 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)

The Deputy Presiding Officer: The result of the division is: For 51, Against 59, Abstentions 0.

Amendment 70 disagreed to.

Section 23—Code of practice and directions

Amendment 71 moved—[Ms Rosemary Byrne].

The Deputy Presiding Officer: The question is, that amendment 71 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Kane, Rosie (Glasgow) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Martin, Campbell (West of Scotland) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 McFee, Mr Bruce (West of Scotland) (SNP)
 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)
 Mundell, David (South of Scotland) (Con)

Neil, Alex (Central Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Swinney, Mr John (North Tayside) (SNP)
 Tosh, Murray (West of Scotland) (Con)
 Welsh, Mr Andrew (Angus) (SNP)

AGAINST

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Gordon (Glasgow Govan) (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)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (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)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 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)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, 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)

The Deputy Presiding Officer: The result of the division is: For 51, Against 60, Abstentions 0.

Amendment 71 disagreed to.

The Deputy Presiding Officer: Group 15 is on the code of conduct. Amendment 52, in the name of Rosemary Byrne, is in a group on its own. I ask the member to be brief.

Ms Byrne: Amendment 52 seeks to ensure that the code of practice has a legal foundation through the affirmative procedure. During today's proceedings, there have been many references to the fact that aspects of the bill will go into the code of practice. The code started out as a set of guidelines but, during the committee stages, we saw the importance of the document and it became a code of practice. Many witnesses have been told that their concerns will be dealt with through the code. Indeed, there has been so much reference to the code that I feel that it is essential that it is embedded in law through the affirmative procedure.

I was disappointed that the minister's amendment at stage 2 did not go as far as my amendment goes. I believe that I am not the only member who was under the impression that Peter Peacock was going to do what amendment 52 seeks to do. In committee, Dr Murray stated:

"The code of practice will be important for interpreting the bill."—[*Official Report, Education Committee*, 17 December 2003; c 576.]

She asked for more information about the consultation mechanism—which the committee welcomed—and went on to ask what the code's status would be. I could read out many more quotes from committee proceedings, but I have been asked to be quick.

Unless we can embed the code of practice in law through the affirmative procedure, it will not be worth the paper on which it is written. The code will be the guiding influence on the bill's implementation. All the areas of concern that witnesses raised have been dumped into the code instead of being included in the bill. That was a trick that was cleverly done, but we have now to catch up with it. I ask members to support my amendment.

I move amendment 52.

Lord James Douglas-Hamilton: Amendment 52 makes it clear that the code of practice should be approved by the Parliament by affirmative resolution. The matters concerned are of great complexity and concern to children, parents, carers and teachers. Surely it is right that the

Parliament should be fully involved and informed in a proactive way about matters of such sensitivity.

Fiona Hyslop: I, too, support amendment 52, which is an essential amendment. The evidence that the committee received and the representations that were made were that so much will be reliant on the code of practice that it would be wrong to leave it as a negative instrument; it must go forward by the affirmative resolution procedure. Indeed, at one point, the minister acknowledged the possibility that, in effect, the Parliament's consideration of the bill will have drawn up the content of the code of practice, so the Parliament would be well placed to consider the code if it came before the Parliament as an affirmative instrument. It is essential for that to happen, particularly when we bear in mind the fact that the bill is so dependent on the code of practice.

Euan Robson: Amendment 52 is too inflexible and it is unnecessary. At stage 2, we introduced amendments to section 23, which provided specifically for consultation on the draft code of practice with education authorities, appropriate agencies and others. The Parliament will have 40 days in which to consider and offer comments on the draft code. Before they proceed to publish the code, ministers must take account of the views that were expressed by the Parliament.

The intention behind the amendments to section 23 is to provide a wide range of people who have an interest in the system with the opportunity to contribute. We want to ensure an effective document. Our intention is for the code to be shaped by the views of as wide a range of interests as possible, particularly by the views of those who work with the code—parents, young people and front-line practitioners.

I believe that we have got the right balance in enabling the Parliament to scrutinise and comment on the code without adopting the more rigid approach that a formal resolution of the Parliament would entail. I ask members to oppose amendment 52.

The Deputy Presiding Officer: I ask Rosemary Byrne whether she wishes to press amendment 52.

Ms Byrne: Again, I do not feel that the minister is getting the point that members are making. I welcome the consultation that has been provided on the code of practice. I welcome everything else that was included in the Executive's stage 2 amendment, but that does not take away from the fact that we need to have the affirmative procedure. It is important that members support my amendment. I will press amendment 52.

The Deputy Presiding Officer: The question is, that amendment 52 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Kane, Rosie (Glasgow) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Martin, Campbell (West of Scotland) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 McFee, Mr Bruce (West of Scotland) (SNP)
 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)
 Mundell, David (South of Scotland) (Con)
 Neil, Alex (Central Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Swinney, Mr John (North Tayside) (SNP)
 Tosh, Murray (West of Scotland) (Con)
 Welsh, Mr Andrew (Angus) (SNP)

AGAINST

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)

Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Gordon (Glasgow Govan) (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)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (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)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 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)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, 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)

The Deputy Presiding Officer: The result of the division is: For 53, Against 60, Abstentions 0.

Amendment 52 disagreed to.

Section 23A—Requests under this Act: further provision

The Deputy Presiding Officer: If amendment 90 is agreed to, I will not call amendment 53.

Amendment 90 moved—[Mr Adam Ingram].

The Deputy Presiding Officer: The question is, that amendment 90 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Kane, Rosie (Glasgow) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Martin, Campbell (West of Scotland) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 McFee, Mr Bruce (West of Scotland) (SNP)
 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)
 Mundell, David (South of Scotland) (Con)
 Neil, Alex (Central Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Swinney, Mr John (North Tayside) (SNP)
 Tosh, Murray (West of Scotland) (Con)
 Welsh, Mr Andrew (Angus) (SNP)

AGAINST

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)

Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Gordon (Glasgow Govan) (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)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (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)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 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)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, 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)

The Deputy Presiding Officer: The result of the division is: For 53, Against 60, Abstentions 0.

Amendment 90 disagreed to.

Amendment 53 moved—[Euan Robson]—and agreed to.

Section 24—Interpretation

Amendment 54 moved—[Euan Robson]—and agreed to.

Amendment 72 moved—[Lord James Douglas-Hamilton].

The Deputy Presiding Officer: The question is, that amendment 72 be agreed to. Are we all agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Grahame, Christine (South of Scotland) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Kane, Rosie (Glasgow) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Martin, Campbell (West of Scotland) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 McFee, Mr Bruce (West of Scotland) (SNP)
 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)
 Mundell, David (South of Scotland) (Con)
 Neil, Alex (Central Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Swinney, Mr John (North Tayside) (SNP)
 Tosh, Murray (West of Scotland) (Con)
 Welsh, Mr Andrew (Angus) (SNP)

AGAINST

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marilyn (North East Scotland) (Lab)

Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Gordon (Glasgow Govan) (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)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (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)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 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)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, 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

Harper, Robin (Lothians) (Green)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)

The Deputy Presiding Officer: The result of the division is: For 51, Against 60, Abstentions 3.

Amendment 72 disagreed to.

After section 24A

Amendment 55 moved—[Euan Robson]—and agreed to.

Section 27—Orders, regulations and rules

Amendment 56 not moved.

Schedule 1

ADDITIONAL SUPPORT NEEDS TRIBUNALS FOR SCOTLAND

Amendments 57 and 58 moved—[Euan Robson]—and agreed to.

Schedule 2

CHILDREN AND YOUNG PERSONS WITH ADDITIONAL SUPPORT
NEEDS: PLACING REQUESTS

Amendment 59 moved—[Euan Robson]—and agreed to.

The Deputy Presiding Officer: In order to allow the usual 30-minute debate on whether the bill be passed, I invite the Minister for Parliamentary Business to move a motion without notice that decision time today be put back to 5.33 pm.

Motion moved,

That, under Rule 11.2.4 of Standing Orders, Decision Time on Thursday 1 April be taken at 5.33 pm.—[Patricia Ferguson.]

Motion agreed to.

Schedule 3

MODIFICATION OF ENACTMENTS

The Deputy Presiding Officer: We now come to group 16, on the modification of the Education (Scotland) Act 1980. Amendment 60, in the name of the minister, is in a group on its own.

Euan Robson: And finally: amendment 60 is a straightforward, but important, amendment to the Education (Scotland) Act 1980. Under section 23 of the 1980 act, one education authority can make provision for the school education of a pupil from another authority's area, and can recover the cost of that provision from that authority.

School education currently includes provision to meet any special educational need. However, the bill introduces a new system, which concerns additional support. The amendment is necessary to extend the existing power so as to allow an education authority to provide for the additional support of any child or young person, along with their school education. The amendment ensures that the existing power, which allows the receiving authority to recover the costs of school education, can also apply to recovering the costs of providing additional support for that child or young person, from the authority responsible. I thank COSLA for drawing that to the Executive's attention and I hope that members will welcome amendment 60.

I move amendment 60.

Amendment 60 agreed to.

The Deputy Presiding Officer: That ends the consideration of amendments.

Education (Additional Support for Learning) (Scotland) Bill

The Deputy Presiding Officer (Trish Godman): The next item of business is a debate on motion S2M-1039, in the name of Peter Peacock, that the Education (Additional Support for Learning) (Scotland) Bill be passed, and one amendment to that motion.

17:00

The Minister for Education and Young People (Peter Peacock): I am conscious that we have had a long day and I will try to keep my remarks as tight as I can.

Today marks the culmination of an extensive process of consultation and parliamentary debate, which has developed a bill that will introduce a new and modern system to support all children—I stress, all children—who need additional support for learning, to allow them to benefit fully from their education.

The bill has certainly generated a lot of interest and has inspired a good deal of debate from all corners of Scottish society, which shows the strength of feeling that exists on the subject and the desire to ensure that Scotland is as inclusive as possible, which can only be a good thing. It is not long ago that special educational needs or disabilities of any kind were barely discussed, or were discussed in pejorative terms, setting low expectations for the groups of young people concerned.

The Education (Scotland) Act 1980 was in its time a landmark piece of legislation that brought about significant change. We should not underestimate the changes that this bill will bring about. The only reason for the bill is to improve children's lives and make a difference to more children than ever before. It is not about change for the sake of change; it is about getting the improvement that we want and about doing more for our young people, in the recognition that what we currently do for them is simply not enough. Parliament has called for change to what has become an outdated system, which we have debated over the past weeks and months, culminating in today's debate.

The principles in the bill put children right at the centre of all that we do and think about. The fundamental provision is the new duty—I stress, duty—on education authorities to assess and address the needs of every child with barriers to learning, irrespective of their having a statutory learning plan. That is a new duty on local authorities that gives all our children new rights that have never been enjoyed before. The bill also

places new duties on other agencies, such as health and social work services, to assist the education service. It removes the outdated and overly bureaucratic record-of-needs process. It provides for mediation services and dispute resolution arrangements to help resolve disputes between parents, the school and the education authority. It introduces the new co-ordinated support plan to better co-ordinate the multi-agency input required to support those children and young people with the most extensive needs and it creates a new additional support needs tribunal to hear appeals relating to co-ordinated support plans. The bill strikes a good balance between seeking to ensure that children with the most extensive needs are protected, while introducing a new system for the wider school population.

I am grateful to everyone for all the work that they have done leading up to the bill's introduction to Parliament and during its passage through the Parliament and the Education Committee. Many people contributed to that process. A wide range of individuals and organisations have engaged with us on the bill, including voluntary sector organisations and professional agencies, and I am grateful to them for being so willing to share their many and varied opinions and experience. I place on record my thanks to everyone for their participation in the process.

I thank also the Education Committee members and officials for their hard work in giving the principles of the bill detailed consideration and for producing a balanced and thorough stage 1 report. The committee's dedication to the task has been clearly demonstrated throughout the process. I commend the way that the committee and the Executive have worked together throughout the process in a spirit of openness and co-operation to secure the best possible options for our children and young people. I also thank the members of the other committees that took time to consider the bill and contribute to the process. Last, but by no means least, I thank Euan Robson for his efforts in dealing with the detail of the bill, and the officials in the Executive's bill team for their hard work in preparing the bill and the accompanying material. Between the bill team, and the committee and its officials, a great deal has been done to ensure that views were taken on board wherever possible, many of which are reflected in the bill as it stands.

Throughout the development of the bill, I have been aware of members' differing opinions and, in some cases, their concerns that the proposals did not go far enough. I have always said that we will listen to and consider careful representations and good arguments for the improvement of the bill. As a result, we have lodged several amendments and have supported others that have strengthened the bill. For example, provisions relating to advocacy are now included in the bill, as are strengthening

provisions for the under-threes. The bill provides for formal consultation, for Parliament's input into the code of practice, and for the code of practice to be applied to other agencies as well as to education authorities. Finally, the bill contains transitional arrangements to offer further protection to those who have a record of needs.

The bill aims to create a stronger, better system for supporting children's learning and their specific needs, and it will make a real difference to many young people in Scotland. I commend the bill to the Parliament.

I move,

That the Parliament agrees that the Education (Additional Support for Learning) (Scotland) Bill be passed.

17:06

Lord James Douglas-Hamilton (Lothians)

(Con): I thank the clerks and the staff of the Scottish Parliament information centre for their assistance in handling the bill. I warmly congratulate Ken Macintosh on the success of his amendment 8A. Those with a knowledge of autism will be extremely grateful to him. I thank the ministers for their good humour and I thank Euan Robson, in particular, for his handling of the committee—even if his concessions were few and far between.

One such concession was the minister's response to Skill Scotland's amendment with regard to transition planning. Skill Scotland has written to me to say that it is content, for the time being, with the minister's assurance that the code of practice will specifically address good practice around transition planning, including the extension of planning time for those with more complex needs. However, I ask the minister to confirm that the code of practice will be formulated with the utmost transparency.

The amendment in my name has been signed by members of the Scottish National Party and the leader of the Scottish Green Party, Robin Harper. On 28 January, I stated:

"This subject needs to be addressed with humility by all concerned, because we are dealing with the most vulnerable in the community ... There is a great deal to be said for weighing the merits of each case on the best interests and needs of the individual child."—[*Official Report*, 28 January 2004; c 5218.]

Paragraph 36 of the Education Committee's stage 1 report states:

"The Committee recognises that the legislation makes certain changes to existing rights, but the Committee is of the view that any changes to legal rights must not represent any lessening of the rights of any child to have their additional support needs met."

During the committee's debates, the issue was the subject of lengthy discussions, and Dyslexia

Scotland was disappointed with the outcome—as were other charities—because many children in Scotland who have severe learning problems, such as dyslexia, may not require support from other agencies. In our view, such children should—at the very least—be entitled to a support plan; however, many of them will not be entitled to that under the bill. The same argument can be advanced on behalf of some children who suffer from autism. Indeed, the National Autistic Society is worried that some children with an autistic spectrum disorder may not be assessed correctly, as their needs are often hidden. The cross-party group on autistic spectrum disorder has also expressed considerable anxiety.

Many parents are rightly concerned because the record of needs for which many of them had to fight will no longer be recognised. They will have no comparable document on which to rely in the event of a dispute or proceedings before a tribunal. There is genuine fear among parents that some children with additional support needs could fall through the net. I do not think that the Executive has paid sufficient regard to the many thousands of parents who have obtained records of needs for their children, but whose children will not be eligible for co-ordinated support plans. I fear that the bill is trying to do too much too quickly and, in solving some problems, will create others. In the light of experience its terms may have to be revisited and changed. Only a very bold member of the Parliament could be confident that a code of practice will be sufficient.

In conclusion, I will not vote against the bill; however, we do not endorse the bill, as we still have substantial reservations, which are outlined in our amendment. If our worst fears turn out to be correct, we will return to the issue. It appears that the bill, in its entirety, is unlikely to stand the test of time.

I move amendment S2M-1039.1, to insert at end:

“but, in so doing, expresses concern that the Scottish Executive did not act fully upon the recommendations of the Education Committee’s 2nd Report 2004 (Session 2), *Stage 1 Report on Education (Additional Support for Learning) (Scotland) Bill*, and is concerned that a significant number of parents who formerly had records of needs for their child will no longer have comparable legal rights to those parents whose children will qualify for a Co-ordinated Support Plan.”

17:09

Fiona Hyslop (Lothians) (SNP): I, too, put on record my thanks for the hard work of all my colleagues on the committee and the clerks. I also recognise the work of the Executive bill team and the minister.

During the process, I think that the minister persuaded the committee and the Parliament in some areas and that we persuaded him in a number of areas. The bill has had a thorough going over—I am not sure whether the minister feels that he has also had a thorough going over. I think that I recognised in some of Lord James Douglas-Hamilton’s comments a backhanded compliment, perhaps followed up by a sucker punch from his experience. However, we should recognise what has happened.

I have a heavy heart in rising to speak because I support Lord James Douglas-Hamilton’s amendment. The bill is a difficult bill—we all recognised that it would be—but there has been a continuous debate about how fairness and justice for all can be balanced against rationing resources and targeting for a few. That has been a contention throughout the debate on the bill. There has been a debate about balancing the rights of parents and children against the responsibilities and resources of local authorities. The concern is whether we have managed to reach the right balance between the rights of parents and the rights of authorities.

I acknowledge that concessions have been made as the bill has progressed. Section 2A and section 24A and the support and advocacy in the bill are testament to that. There is some recognition of the need to protect children who currently have a record of needs, but there is a danger that they will not have rights that are comparable to the rights of those who have the new CSP. That cuts to the heart of the matter.

There has been amelioration of some factors, which I welcome and am pleased about. Much attention has also been given to the early-years debate and, in particular, to the importance of recognising special needs and additional support for learning at an early stage. I ask the minister to reflect that, as part of this national bill, we will yet again put more duties and responsibilities on nursery nurses in order to deliver some of the early provision. *[Interruption.]*

The Deputy Presiding Officer: Order. There will be no applauding in the galleries, thank you.

Fiona Hyslop: I recognise that the Executive has referred to three and four-year-olds, but I am disappointed that the amendment relating to two-year-olds was not accepted. An opportunity has been missed. There could have been a universal system. I think that we want a universal system and that the ministers would like such a system, but we are going too slowly for that. We will revisit the legislation—certainly in dealing with a code of practice—but I suspect that, later on, we will need to ensure that we secure rights for all children to ensure that all children’s support needs are met in future.

17:12

Robert Brown (Glasgow) (LD): Perhaps we have arrived at this debate a little punch drunk and battered by the sheer length of the stage 3 proceedings. It seems odd to recollect that there was a time when I had never heard of the Education (Additional Support for Learning) (Scotland) Bill. However, I am glad that I have dealt with it, as the experience has been interesting. The bill is the first to go through the Education Committee during my convenership and it has been interesting to follow it through.

I thank the clerks and staff—Martin Verity and his colleagues. In particular, I thank Irene Fleming, who is about to leave the education clerk sector for another posting in the Parliament. They have all been absolutely brilliant during the exercise. I also thank the ministers. We do so formally, but I do so genuinely on this occasion because they have bent over backwards to be careful and considerate in their approach to the bill. When they assumed office as the new ministers, they had a fresh look at the matter, reconsidered it and came back with a fresh version of the bill. Leaving aside amendments, one seventh of the bill's sections are marked with an "A", which indicates that they were amended at the committee stage. Therefore, the Opposition leaders—Lord James Douglas-Hamilton and Fiona Hyslop—have been a little less than gracious in accepting the extent to which the Executive has taken issues on board.

The bill is difficult and a balance has had to be struck between, on the one hand, the desire for a universal system and, on the other hand, the desire for specific targeted and focused attention on the particular needs of certain categories of children. I think that the bill has got the balance broadly right. There can always be nuances and I do not doubt that we can all take a slightly different view of certain bits of the bill, but all the pressures on it should be taken into account. To be honest, I am not entirely convinced that Fiona Hyslop in particular has steered the same course throughout the bill. A number of slightly different arguments have been pursued and it was notable that the committee managed to achieve a unanimous stage 1 recommendation, which has largely been met by what has happened since.

The tribunals were one of the most contentious issues, but the discussions that I had with Children in Scotland and other organisations led me to believe that they will be broadly content with the eventual outcome.

This is a good bill, which will lead to significant improvements for a vulnerable section of the population. Apart from thanking the committee, the ministers and the staff, it is important to thank the children, the parents and the various voluntary organisations that gave their input to the committee.

I finish by thanking the committee. We had a good Education Committee on the bill, and all its members have, without regard to party considerations, taken their best steps to put forward both their views and the views that were presented to them. They debated the matter in a reasonable and sensible fashion, and it has been a privilege to be the convener of the committee. It is a little unfortunate that we have a division of opinion at the end, as I do not think that it is justified by the nature of the debate. I hope that the Parliament will unanimously pass the Education (Additional Support for Learning) (Scotland) Bill at the end of the day.

The Deputy Presiding Officer: Due to time constraints, I will not be able to call all members who have requested to speak. We will stick to tight three-minute speeches.

17:16

Rhona Brankin (Midlothian) (Lab): I support the Education (Additional Support for Learning) (Scotland) Bill and I would like to put on the record my thanks to the committee and the bill team for what is an extremely complex bill. I also thank the many people who have participated in some way and made their views known.

I do not recognise the extremely uncharitable comments that Mr Douglas-Hamilton made about the ministers who have been involved with the bill. I would like to put on the record my thanks to those ministers for their ability to listen and to take action after listening. On this bill, they proved themselves to be listening ministers.

I welcome the bill as someone who has worked for more than 20 years with children with additional support needs, and as the parent of a daughter who had a record of needs when she was at school. There is widespread acceptance that although the Education (Scotland) Act 1980 was a landmark act in its time, as the minister said, it has become inadequate. There are huge discrepancies in how the legislation has been implemented throughout Scotland. The 1980 definition excluded many children and young people from support—notably children with social, emotional and behavioural difficulties—but the bill is inclusive.

The new term "additional support needs" is important because such needs can arise from any factor that causes a barrier to learning. As a parent, I welcome the new rights for parents that are in the bill, including the right for parents to ask the education authority to assess their child, the right to access mediation and dispute resolution, and the right to appeal to the new, family-friendly tribunals. Those rights also apply to young people aged 16 and 17.

I welcome the new duties on education authorities and others, such as health authorities, because we have failed young people in that area in the past. Under the bill's provisions, agencies must comply with requests from the local authority, and that responsibility must lie with the education authority.

In conclusion, the bill is a major step forward for children and young people with additional support needs and their parents. It is just over 20 years since legislation described some young people as ineducable. Today, we are taking a major step forward in removing barriers to learning and including all pupils in our education system. I ask members to support the bill.

17:18

Mr Adam Ingram (South of Scotland) (SNP): In my experience, the Education (Additional Support for Learning) (Scotland) Bill compares in its degree of difficulty only to the Mental Health (Scotland) Bill, which we passed in the previous session of Parliament. With the latter bill, we at least had the benefit of a comprehensive report by the Millan committee as a benchmark.

The SNP has approached the bill in a constructive manner, although we make no secret of the fact that we would have preferred the Executive to strengthen the universal system for learning support in our schools, rather than to replace a separate, special system to meet the needs of a vulnerable group of children with another special system. We take the view that, in the real world, systems for everyone tend to have higher standards than systems for sub-groups of the population. Of course, universal systems also limit the scope for stigmatisation.

We support the Executive's intention to broaden the coverage of the school population to which the bill will apply so that it will include, for example, children with social, emotional and behavioural difficulties. However, we are concerned that children with complex and multiple needs who do not require services outwith the education authority will not be eligible for a CSP, which will both confer legal rights and, crucially, provide access to the new tribunals.

We are disappointed that the Parliament today closed off the opportunities to extend access to the tribunals. That is why we will vote for the amendment in the name of Lord James Douglas-Hamilton. We are very much in favour of moving towards a tribunal system to which everyone has access. That would ensure that we do not repeat the mistakes that were made under the old record-of-needs system. Access to a tribunal should not be dependent on possession of a CSP; still less should a CSP be sought after as a passport to services.

Given the adversarial nature of the current system, members must recognise the legacy of confrontation and suspicion that has too often marred the relationship between parents and education authorities in their pursuit of their duty to care. We must do all that we can to ensure that the new system does not suffer the same fate.

17:21

Ms Rosemary Byrne (South of Scotland) (SSP): I take this opportunity to thank the committee and its clerks for their hard work. The clerks have been very supportive in what has been my first experience of the passage of a bill. I thank them for that.

Every child should have his or her additional support needs met—that is the crux of the matter. Peter Peacock wants to make a real improvement, but the introduction of a two-tier system will not be inclusive. Instead, it will provide a deficit model for the children who will have a CSP, who will be labelled as being different from other children. That flies in the face of all the progress that has been made over the years in ensuring that special educational needs are met appropriately.

The bill will not remove any barriers; it will place more in the way. We should have taken the road of providing a universal system for additional support and for the tribunals. There is absolutely no doubt about that. I have a lot of sympathy with Lord James Douglas-Hamilton's amendment, which I will support because I feel that we have been let down badly in the bill. Not all children who have the most extensive needs will be protected by the bill. Children who have autistic spectrum disorders or dyslexia, and many other young people, will not be protected and their parents will have a battle on their hands. As I said earlier, we will have an adversarial situation.

The way in which the votes on the amendments have gone today is a true reflection of what happened in the committee. A lot of effort has been made to try to reach consensus, but many members are unhappy with the bill. Some of them will still vote for its implementation, but the Scottish Socialist Party will vote against it. We believe that the bill will simply provide a minefield for parents. That will be a real issue.

17:24

Dr Elaine Murray (Dumfries) (Lab): I welcome the fact that we have reached the final stage of the bill. The bill has been a long time in gestation, not only in the committee but in the consultation periods before that, so I hope that it will succeed in being passed without the qualification of the amendment.

I completely dissociate myself from Lord James Douglas-Hamilton's statement that ministers' concessions were few and far between; that is patently incorrect. Let us reflect on the fact that the bill will, for the first time, place a duty on local authorities to provide for all children who require additional support to reach their full potential. Thus, no child should fall through any net. The bill does not provide a two-tier system, but one that will provide additional support for all children who have additional support needs.

I am amazed that the Scottish Socialist Party will vote against the bill and therefore in favour of the record-of-needs system, which has been so discredited. These days, that system results in postcode provision for the most vulnerable children. The bill recognises that the system of support is most likely to break down where services are provided by more than one agency. For that reason, it will place on education authorities a duty to ensure that co-ordinated services are provided for vulnerable children. The bill is about protection and recognising where things go wrong. It is not about labelling and stigmatisation.

The bill will also provide additional reassurances to parents of children who have records of needs but will not be eligible for CSPs. Those children will receive a service that is at least as good as the service that they received previously. There will be no diminution of service.

The guidance on the code of practice will be essential. I welcome the fact that there will be consultation with a large number of stakeholders. That consultation will involve not just Parliament, but the people who really matter: the parents of the youngsters.

I am pleased to support the bill and to reject the amendment.

17:25

Mr Brian Monteith (Mid Scotland and Fife) (Con): Noted as I am for my consensual approach, I am sorry to disappoint members by saying that it will not be reflected in this speech.

Apparently, many children will receive additional support under the bill. I use the word "apparently" intentionally, because the record of local authorities on the matter is patchy. Sometimes their provision is generous and impressive, but sometimes it is parsimonious and begrudging. There is nothing in the bill that will necessarily change that.

I pay tribute to members who have lodged successful amendments, but despite those amendments and attempted amendments from all parties we know that—for some—"additional

support" is no more than Government doublespeak. Many will lose the rights that they could otherwise have expected to enjoy. That is why we have difficulty in endorsing the bill unequivocally and why we have lodged a reasoned amendment.

I pay tribute to Ken Macintosh for his perseverance, which showed us that it is possible to defeat the Executive on amendments to a bill. The most disappointing part of today's debate was Robert Brown's failure to resist amendment 47. How many of us are able to claim a successful amendment to a bill against Government whipping in committee? Robert Brown can claim that. However, today he gave in to pressure from the Executive—the same Executive that he was so willing yesterday to dig out of a hole on Holyrood. I believe that if he had resisted the Executive he would have had enough support to win the day.

The bill was well intentioned and has many good points, but it has too many flaws to have our overwhelming endorsement. I support the amendment.

17:23

The Deputy Minister for Education and Young People (Euan Robson): In the customary manner, I take this opportunity to extend my thanks to all those who have contributed to the development and preparation of the bill. I am grateful to the bill team, not only for the amount of work that they have put in, but for tirelessly supporting Peter Peacock and me throughout the process.

We need to consider the length of time between the deadline for lodging of amendments and consideration of amendments in committee and the chamber. When bills are as complex as this one, it is important that there be enough time for proper consideration of amendments. I remember one occasion on which my officials had to leave Victoria Quay at 2.30 on the morning of a committee meeting. That is not acceptable and we should change the process. The situation is the same for members, who have but a short time to consider amendments.

I thank the Education Committee for its balanced, constructive and thorough approach and input to the bill and I thank the committee's officials for all their hard work. Peter Peacock and I thank all the organisations and individuals that have helped to shape the bill.

I was a little disappointed by Lord James Douglas-Hamilton's remarks. To borrow the terminology of the bill, I consider them to be barely adequate, whereas I consider that the concessions that I granted were indeed adequate. I assure the member that the process for drawing

up the code of practice will be transparent. I hoped and thought that I had got that message across firmly at stage 2.

I do not think that some members have understood fully the importance of section 2A of the bill. We devoted a great deal of time and attention to that and to the issues that were raised concerning the rights of all those who will not have a co-ordinated support plan. I think and hope that in practice section 2A will prove to be the landmark amendment to this bill and that it will be effective in securing the rights of those who do not have a CSP.

We are committed to implementing the bill in full. However, that will take time; the bill's main provisions are unlikely to be commenced before autumn 2005. We have never said that the legislation would be the final word on this important area; indeed, we have made it very clear that we are prepared to keep a constant watch on the matter not only during the implementation process, but throughout the act's lifetime. I look forward to a day when tribunals and advocacy are not necessary because the system is working so well.

In implementing the bill, we will work with key stakeholders across Scotland to ensure that we achieve its aims and that the new system delivers. A small advisory group including representatives from a range of interests—parents, professionals from education, health and social work, career services and training providers—has already been set up and that is just the start. As I said, we will make the process of drawing up the code of practice transparent.

Furthermore, as Peter Peacock made clear during the stage 1 debate on 28 January, considerable funding has been set aside for implementation. I reiterate that £14 million will be made available in 2005-06 to support the bill's implementation and, in the financial year that has just begun, £12 million will be available to help prepare for that implementation. It is clear that we have dedicated considerable resources to the bill's smooth and practical implementation.

I acknowledge, however, that a great deal more has to be done and I am pleased to say that that work is in train. The bill gives us an opportunity to develop a new system that will build on existing good practice and which will make a real difference to the lives of many children and their families throughout Scotland. It is an opportunity that should not be missed and I am sure that that will not happen. I thoroughly recommend that Parliament agree that the Education (Additional Support for Learning) (Scotland) Bill be passed.

Business Motion

17:32

The Deputy Presiding Officer (Murray Tosh):

The next item of business is consideration of business motion S2M-1125, in the name of Patricia Ferguson on behalf of the Parliamentary Bureau, setting out a timetable. I invite any member who wishes to speak against the motion to press their request-to-speak button now.

What am I doing? I am reading the wrong line. I call on Patricia Ferguson to move motion S2M-1125. [*Laughter.*] It has been a long day.

The Minister for Parliamentary Business (Patricia Ferguson): I am happy to move the motion, albeit a little belatedly.

I move,

That the Parliament agrees—

(a) that consideration of the Local Governance (Scotland) Bill at Stage 2 be completed by 4 June 2004;

(b) that the timetable for consideration of the Fire Sprinklers in Residential Premises (Scotland) Bill at Stage 1 be extended to 8 October 2004; and

(c) that the Justice 1 Committee reports to the Justice 2 Committee by 16 April 2004 on the Police Grant (Scotland) Order 2004, (SSI 2004/120); the Police (Scotland) Amendment Regulations 2004 (SSI/2004/121); and the Criminal Legal Aid (Fixed Payments) (Scotland) Amendment (No.2) Regulations 2004 (SSI/2004/126).—
[*Patricia Ferguson.*]

Motion agreed to.

Parliamentary Bureau Motions

17:33

The Deputy Presiding Officer (Murray Tosh): The next item of business is consideration of three Parliamentary Bureau motions. I ask Patricia Ferguson to move motions S2M-1141, S2M-1142 and S2M-1143, on membership of committees.

Motions moved,

That the Parliament agrees that Ms Sandra White be appointed to replace Campbell Martin on the Equal Opportunities Committee.

That the Parliament agrees that Campbell Martin be appointed to replace Ms Sandra White on the Public Petitions Committee.

That the Parliament agrees that Ms Sandra White be appointed to replace Campbell Martin on the Communities Committee.—[Patricia Ferguson.]

Decision Time

17:33

The Deputy Presiding Officer (Murray Tosh): There are five questions to be put as a result of today's business. The first question is, that amendment S2M-1039.1, in the name of Lord James Douglas-Hamilton, which seeks to amend motion S2M-1039, in the name of Peter Peacock, that the Education (Additional Support for Learning) (Scotland) Bill be passed, be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fox, Colin (Lothians) (SSP)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Kane, Rosie (Glasgow) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Martin, Campbell (West of Scotland) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Neil, Alex (Central Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)

Swinburne, John (Central Scotland) (SSCUP)
 Swinney, Mr John (North Tayside) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)

AGAINST

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Gordon (Glasgow Govan) (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)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (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)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 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)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, 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)

The Deputy Presiding Officer: The result of the division is: For 52, Against 61, Abstentions 0.

Amendment disagreed to.

The Deputy Presiding Officer: The second question is, that motion S2M-1039, in the name of Peter Peacock, that the Education (Additional Support for Learning) (Scotland) Bill be passed, be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Baillie, Jackie (Dumbarton) (Lab)
 Baird, Shiona (North East Scotland) (Green)
 Baker, 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) (Ind)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 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, Gordon (Glasgow Govan) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (North East Scotland) (SNP)
 Lyon, George (Argyll and Bute) (LD)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Campbell (West of Scotland) (SNP)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)

McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 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)
 Robison, Shona (Dundee East) (SNP)
 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, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Welsh, Mr Andrew (Angus) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Byrne, Ms Rosemary (South of Scotland) (SSP)
 Curran, Frances (West of Scotland) (SSP)
 Fox, Colin (Lothians) (SSP)
 Kane, Rosie (Glasgow) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Swinburne, John (Central Scotland) (SSCUP)

ABSTENTIONS

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)
 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)
 McLetchie, David (Edinburgh Pentlands) (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)

The Deputy Presiding Officer: The result of the division is: For 91, Against 6, Abstentions 15.

Motion agreed to.

That the Parliament agrees that the Education (Additional Support for Learning) (Scotland) Bill be passed.

The Deputy Presiding Officer: If no member objects, I propose to put the next three questions, on committee membership, en bloc.

The question is, that motions S2M-1141, S2M1142 and S2M-1143, in the name of Patricia Ferguson, on the membership of committees, be agreed to.

Motions agreed to.

That the Parliament agrees that Ms Sandra White be appointed to replace Campbell Martin on the Equal Opportunities Committee.

That the Parliament agrees that Campbell Martin be appointed to replace Ms Sandra White on the Public Petitions Committee.

That the Parliament agrees that Ms Sandra White be appointed to replace Campbell Martin on the Communities Committee.

Nursery Nurses (Pay and Conditions)

The Deputy Presiding Officer (Murray Tosh):

The final item of business is a members' business debate on motion S2M-977, in the name of Elaine Smith, on nursery nurses' pay and conditions. The debate will be concluded without any question being put.

Motion debated,

That the Parliament recognises that the job of nursery nurse represents one of the remaining professions characterised by both an almost exclusively female workforce and an overarching legacy of low pay; notes however, that the increased academic and professional demands upon nursery nurses have been consistently recognised by both the Parliament and wider society in recent months; expresses concern that this consensual public recognition has not been reflected in the form of an adequate and timely settlement for those nursery nurses currently jeopardising their own financial security in an attempt to obtain a remuneration package that fairly represents their job and responsibilities; conveys regret that nursery nurses have now voted overwhelmingly for indefinite strike action to begin on 1 March 2004 that will result in widespread disruption to children's education and massive inconvenience for parents; acknowledges that this dispute represents a potential watershed not only for the future of the nursery service and early years education but also for the issue of equal pay in Scotland, and suggests that a possible route to a satisfactory settlement would be a national review of the nursery service followed by a Scotland-wide regrading of the role of nursery nurses.

17:37

Elaine Smith (Coatbridge and Chryston) (Lab): I am pleased that my motion was chosen for debate this evening at this critical stage in the dispute and I thank the members who signed the motion and those who have stayed for the debate. I also want to thank the nursery nurses who have made the journey to Edinburgh today, including a party from my constituency. I welcome them to Parliament this evening. [*Applause.*]

Given that the most recent debate on the subject, which was initiated by the Scottish Socialist Party, did not provide back-bench MSPs with an opportunity to speak because of the short time that was allocated for debate, I hope that tonight's debate will help to redress that by providing members with an opportunity to express their views. It also gives me and my Labour comrades an opportunity to register our continuing support for the nursery nurses and to dispel the myth that we are somehow unsympathetic to their cause. Although it is arguably acceptable to view the nursery nurses' dispute in simple terms as a pay dispute between employers and employees—third-party political interference can often prove unhelpful and counterproductive in such situations—I am convinced that the dispute

represents an issue that is of great significance and one that we must address with the powers that we have in this Parliament through a national review.

During a members' business debate in September last year, I asked why, as a society, we have allowed the job of nursery nurse—a job that ensures the delivery of a valuable pre-five curriculum to our children—to be overlooked and undervalued for so long. Sadly, I do not think that it is a coincidence that that is the experience of a profession that, according to Unison, comprises almost entirely women. The job of nursery nurse undoubtedly represents one of the few remaining professions in Scotland that are characterised both by an almost exclusively female work force and by an overarching legacy of low pay.

As a young Parliament with an increasingly impressive record in championing equality issues, we have a responsibility to recognise the potential opportunity that the dispute creates—the opportunity to strike a real blow against a legacy of low pay for women in this country. [*Applause.*]

The Deputy Presiding Officer: Order. Before the member continues, I must make something clear. I really do not believe that anyone in the gallery is unaware of this, but if they are I shall make it clear now. This is a meeting of Parliament; it is not a campaign rally or a public meeting and we cannot have speeches punctuated by applause. The gallery must respect the rules of the Parliament—if it does not, I will have to clear it. I would be grateful if the rest of the debate could be listened to. I invite Elaine Smith to continue her speech.

Elaine Smith: By ensuring that the nursery nurses' professional responsibilities and value to our society are properly recognised and remunerated, Parliament can send a strong message that it will no longer tolerate the marginalisation of women in the labour market.

The gender issues that are at play here cannot be ignored. I note that Edinburgh's nursery nurses left their picket lines yesterday to join arms in Charlotte Square to mark the 90th anniversary of the first force-feeding in Scotland of hunger-striking suffragettes. From an equalities perspective, one of the few positive aspects of this protracted dispute has been the consistent public support that the nursery nurses have received. There has been little argument about their professionalism and the value of their role in the early-years education of our children and in our society. I have received several letters from constituents about the industrial action; none has disputed the nursery nurses' claim.

In recent months, Parliament has seen the First Minister and other members of the Executive

acknowledge the additional academic and professional demands that have been placed on nursery nurses since devolution. Scottish Executive policies on curriculum development and social inclusion, as well as funding initiatives such as sure start Scotland, the child care strategy, and education funding for three and four-year-olds—which are aimed at securing the best possible start in life for our children—have increased responsibilities. They have also increased class and group sizes and they have initiated major changes in the work load and role of nursery nurses.

Margaret Jamieson (Kilmarnock and Loudoun) (Lab): Does Elaine Smith agree that the alterations that Scottish ministers made last year to the school code, when they removed the requirement to have primary teachers in each pre-five establishment, is recognition of the qualifications that are now available in the pre-five sector, particularly the BA in childhood studies?

Elaine Smith: I thank the member for that helpful intervention. As I recall, that happened last year in acknowledgement of the first graduates, and it confirmed the Executive's commitment to recognising the professional status of nursery nurses. Unfortunately, the Convention of Scottish Local Authorities does not seem to have acknowledged that yet.

The Scottish Executive should be congratulated on its willingness to effect change in the early-years service and I am pleased that many of our children are now benefiting as a result of the improvements that have been initiated. However, with the power to make such changes comes the inevitable responsibility to ensure that the appropriate structures are in place to recognise, absorb and implement those developments. I am therefore pleased to note that since my motion was lodged in February, the First Minister has agreed that those factors comprise a case for a national review and I welcome the fact that the issues of

“pay grading, career progression, conditions of service and the status that is given to that particular job”

will form part of that review.

Carolyn Leckie (Central Scotland) (SSP): Will the member take an intervention?

Elaine Smith: I am sorry that I do not have time; I am sure everyone will get to speak if we rush on.

In order to ensure that nursery nurses receive a fair remuneration package that recognises factors such as the level of qualification that is required, national registration, national development within the curriculum for children aged zero to five, and a large number of national initiatives that impact upon the nursery service, any review must give

due consideration to the establishment of a standardised national scale for nursery-nurse grades. Throughout the country, the nursery service is subject to national guidelines, a national curriculum and national care standards—surely a national pay scale would represent positive progress.

I hope that the review will also consider the creation of a career structure for nursery nurses and the clarification and standardisation of the relevant qualifications in the sector. In short, I hope that there will be a review that will establish the early-years sector as a recognised profession that will deliver clear job roles that are linked to appropriate qualifications and identified career progression.

Fiona Hyslop (Lothians) (SNP): Will the member give way?

Elaine Smith: I do not have time. In initiating such a review, we must remember that those women have been undervalued for decades. They have been driven to jeopardising their financial security in an attempt to secure a package of pay and conditions that adequately reflects the job that they do. A review must not let them down. In the meantime, nursery nurses are still on all-out strike, and COSLA must meet Unison to agree a fair national settlement and an end to the disruption that the dispute is causing for the workers and for those who rely on the services, the majority of whom are also women. I understand that COSLA has—in an e-mail today—offered to have a meeting and that Unison has agreed to meet at the earliest opportunity. I am pleased to be able to welcome that announcement.

The level of pay for nursery nurses is a national disgrace and has been for too long. If we value our children and their education and welfare, that must be reflected in the value that we place on nursery nurses: they must be paid what they deserve. I say to the minister that we must have a national review, it must be soon and it must be adequately resourced.

The Deputy Presiding Officer: I advise members that there is a very long list of names on my screen. We will look at an extension, but I am not sure that even that will resolve the situation. I will restrict speeches to three minutes.

17:45

Shona Robison (Dundee East) (SNP): I congratulate Elaine Smith on securing this important debate.

I will strike one note of discord. Elaine Smith referred in glowing terms to the role of Labour members. Her comment elicited a sharp intake of breath from somewhere in the chamber. I do not think that any more has to be said on that matter.

I welcome the nursery nurses who are in the public gallery, particularly the ones who have come all the way from Dundee and Angus. To put the record straight, I should point out that dressing in Victorian clothes is not some strange Dundonian tradition: they are dressed like that to mark the 90th anniversary of the first force-feeding of a hunger-striking suffragette in Scotland.

The link with the suffragette movement, and with international women's day, which was a few weeks ago, is important, because it shows that equality for women is still some way off, particularly on equal pay. The figures speak for themselves. Women are still earning far less than men and they are likely to be in low-paid, undervalued work. Even if the nursery nurses get their full settlement, it will still be around £7,000 less than the average male wage.

The nursery nurses are chronically low paid and undervalued. Their work is not given the recognition it deserves. They do a crucial job that has been transformed by the additional responsibilities and duties that have been given to them by the Scottish Executive. Today, with the passing of the Education (Additional Support for Learning) (Scotland) Bill, yet more responsibilities will be given to nursery nurses. The question for the Executive is, will it pay them for those additional responsibilities? If it does not, we will continue to see disputes such as the current one.

There is no point in members tutting: if the nursery nurses are not paid for the work they do, how will the dispute be resolved? It is not good enough to give nursery nurses more responsibility and not pay them, and it is not good enough for the Scottish Executive to wash its hands of the matter and try to pass the buck to COSLA. Yes, COSLA is culpable and irresponsible for refusing to engage in national talks, but members should not try to squeeze out of their responsibility. There is a Labour-led Executive and a Labour-led COSLA. Why do members not use their influence to try to settle the dispute? No amount of sabre rattling by the First Minister on this issue, and no amount of saying that people should get round the table, is good enough. It is not enough. He should have used his influence long before now to bring the dispute to a conclusion.

While we support a national review, a national review does not equate to a national settlement. We need a national settlement, because only that will end the dispute. I hope that the talks that are beginning today will lead to a national settlement, for the sake of the nursery nurses and the children. We all hope that the dispute will be brought to a speedy conclusion.

17:48

Johann Lamont (Glasgow Pollok) (Lab): I am grateful for being called early in the debate. I apologise that I will have to leave early. I hope that people will not see that as a discourtesy, but will recognise that my pressing child care responsibilities were not helped by the last vote being taken later than we expected.

I congratulate Elaine Smith on securing the debate, on the thoughtful motion that she lodged and on her thoughtful speech. I have been disappointed by the tone of some of the Opposition's contributions. I hope that it will be possible to have a debate that is as measured and dignified as the nursery nurses have been in conducting their dispute.

There have already been a number of debates on the nursery nurses' dispute. As we have progressed, things have become more rather than less difficult. Nursery nurses have taken the difficult decision to go on an all-out strike. Once again I acknowledge the dignified way in which they have conducted their dispute. I regret that the media have not covered their dispute in the way that they cover what they obviously consider to be more glamorous disputes.

I have always resisted the pressure to debate matters over which we do not have an influence, but I genuinely believe that the Scottish Executive can play a central role in the dispute. The Scottish Executive has the option of securing a settlement in the dispute and it has shifted on the issue over time. Jack McConnell's statement that he recognises the benefits of a national review is a reflection of that shift. We must continue in that vein.

The dispute is about women workers and women's jobs. It is about a service that is particularly important to women and that supports women who seek to work. The dispute impacts disproportionately on those who manage child care in communities. It is underpinned by women's inequality in pay and employment opportunities.

I understand that all disputes are difficult—I have been involved in an industrial dispute. At some point, it will have to end. I am concerned by the reports that I have received from local nursery nurses about damage being done to their cars as they are on the picket line. Those of us who are not involved in the dispute must be careful about the language we use, because those who are in dispute will have to go back to work at some point. We must do everything possible to ensure that they go back with dignity and that they are not driven back when they do not want to do so because they have not reached a fair settlement.

Serious discussions are taking place about an independent review of the sector. However, that

cannot be seen as an escape clause for the Scottish Executive. There must be a real offer. If we ask nursery nurses to settle so that a review can begin, we must ensure that the review is a real one. It will have to be immediate and thorough and the trade unions and employers must have a key role in defining its terms. The fundamental point is that resources must be made available so that if the review recognises the changing nature of the service, better pay and conditions can be delivered for those who provide the service in our communities.

17:52

Carolyn Leckie (Central Scotland) (SSP): I am happy to follow Johann Lamont, who was the only Labour member who voted against the Executive in the debate on my motion on the subject.

The suffragettes demanded deeds, not words. It is fitting that nursery nurses in the public gallery are celebrating an anniversary in the suffragette movement and remembering the suffering that suffragettes endured during hunger strikes. They were force-fed; like them, the nursery nurses are being force-fed low pay. There have been campaigns for pardons for suffragettes; the present campaign is for pounds for nursery nurses. They demand deeds, not words.

Any review should be part of a national settlement that is acceptable to Unison and the nursery nurses. The key point is that there will be no resolution to the dispute unless the deal is acceptable to them. There is no achievement in ending disputes by manipulation or sleight of hand. If that were to happen, not only the nursery nurses would lose. Children, parents and society would also lose, as would the Executive ministers who sat on their hands while the women who have an obviously just case and who are struggling for recognition, an end to low pay and an attempt at equality began six weeks of all-out national action—the first such action since the miners' strike. History will judge not what we have said, but what we have done. Platitudes are cheap.

It disappoints me that more Labour MSPs saw fit to defend the power base of Labour councillors than voted to support a nationally negotiated settlement for nursery nurses. Those councillors demand national pay of £25,000 but deny nursery nurses a top-level national pay of only £18,000. Are councillors worth more than nursery nurses? I do not think so. If national pay is okay for councillors, teachers and MSPs, it is okay for nursery nurses.

What is hard about agreeing that nursery nurses have a just claim? Given the Executive's national expectations of nursery nurses, what is hard about acceding to the national expectations of nursery nurses? That is a simple quid pro quo. Even if the

national claim were met, the Executive would still get far more from the nursery nurses than the nursery nurses would get in their pay packets. What is hard about delivering a national agreement?

On a political point—this is a political issue—I would be absolutely delighted if the Labour Party pulled a rabbit out of the hat and secured a settlement for the nursery nurses. If it does not, it will suffer political consequences.

I stand firmly on the side of the nursery nurses. The Executive needs to deliver.

17:55

Pauline McNeill (Glasgow Kelvin) (Lab): I congratulate Elaine Smith on securing this debate on the final day before the Easter recess. It is a measure of our support for this campaign that we are in the chamber tonight.

I am a bit concerned about the tone of the debate: I do not think that it has been conducted in the spirit of other members' business debates. It would be wrong for any of us to be clambering over one another to say who is more supportive of the nursery nurses. We all have different views about how a settlement can be reached and we should at least respect one other's views. There can be no denying the importance that every party in this Parliament attaches to the education and learning programme of young children. There can be no question but that there is widespread, cross-party support for a settlement and a review of the arrangements covering pay, conditions, qualifications and status in the public and private sectors—I recognise that there are complications in this dispute because we want to raise standards in the private sector as well as in the public sector.

Unison is one of the unions that is involved in this campaign to increase substantially the role and status of nursery nurses; the GMB—of which I now declare that I am a member—is another. As a natural consequence of the Government's policy that the education of pre-five-year-olds is central to what we want to achieve, the status of the profession of nursery nurses will be uplifted. Elaine Smith's point is absolutely crucial: the status of the profession must be raised permanently in the long term. If we do so, the settlement that I hope will be arrived at will have benefits in the future.

Margaret Jamieson, who has made excellent speeches on this subject, has said that the education sector is fundamental to the issue. If we believe that nursery nurses are an important profession, they must be able to move from further education to university, which is why the new degree is crucial in relation to the development of the profession.

I want to place on record my support for a national settlement and a review to ensure that we also consider the complexities of bringing about a change across the public and private sectors that has some permanency.

We must be sensible. If we want to make progress in relation to this dispute, we must find the common ground between the parties.

17:58

Lord James Douglas-Hamilton (Lothians) (Con): I congratulate Elaine Smith on her success in obtaining this debate and on her excellent presentation of what is an extremely important case. Although the Conservatives advocate local settlements as the way forward, it is our belief that nursery nurses deserve a substantial pay rise and a more structured career path due to the extra duties and responsibilities that they have taken on over the years.

I note that some 12 authorities have now settled and that more are in discussions. I would be most grateful if the minister could enlighten the Parliament this evening by explaining the Executive's position. The First Minister said that a national review will take place if the strike is ended and local deals are accepted. The First Minister has indicated that a national deal might be the result of a national review. However, the Executive appears to advocate local negotiations. It would be helpful if the minister could explain the nature of his policy and confirm that there is a thread of consistency in the Executive's thinking. We very much hope that there is.

17:59

Jackie Baillie (Dumbarton) (Lab): I join other members in congratulating Elaine Smith on securing the debate. I also declare an interest as a member of Unison.

It is worth while reflecting on how we got where we are. The dispute started as a regrading claim—not this year, but prior to local government reorganisation in 1995. I think that we can all acknowledge the patience of the nursery nurses. COSLA agreed to a regrading and to a job-evaluation scheme. Regrettably, none of that has happened.

I agree with Johann Lamont. Although individual local authorities are the employers, much wider issues are at stake. I therefore have considerable sympathy with the view that there should be a national settlement. To be frank, it is nonsensical that a nursery nurse in Aberdeenshire is paid differently from a nursery nurse in Dunbartonshire; the same national curriculum and the same national qualifications apply, and one has to assume that the children are not too different in the two areas.

Pre-school education has been a significant priority for the Executive. We have invested considerably; that is not in any doubt. Equally, however, the quality and the professionalism of the staff are not in any doubt. If we value pre-five education, which I believe we all do, that should be reflected in the salaries that are paid to the staff, who are central to the provision of that education. I do not think that a starting salary of £10,000, with an upper limit of £13,800, signals the true worth of nursery nurses.

It has not escaped the notice of members that the profession is dominated by women. Equally, it has not escaped their notice that it is predominantly women who experience low pay. Yes, the problem is structural, but we should not ignore it simply because it is difficult to deal with. If we truly want a society that is characterised by equality and justice, we will have to address such critical problems.

For all those reasons, I support the calls for a national review and a national settlement to cover not only those in the public sector, but those in the private sector and the voluntary sector. I welcome the First Minister's commitment to have a review that will consider the roles and responsibilities of staff, early-years child care, qualifications, and career progression—and yes, a review that will address the question of better pay and conditions. However, our aims should be one framework for salaries, one structure for career progression, and a clear recognition of the responsibilities of nursery nurses so that, throughout Scotland, they are valued properly and equally.

18:02

Campbell Martin (West of Scotland) (SNP): This debate is extremely important. It is not just about the nursery nurses fighting for a decent wage; it is also about the scandal of low pay and the scandal of unequal pay in Scotland. The nursery nurses are to be congratulated on taking a firm stand in that fight.

The nursery nurses' dispute crystallises just how far to the right on the political spectrum new Labour has placed itself. The nursery nurses' dispute has exposed just how Thatcherite the Labour Party has become. If we think back to the dark days of the Thatcher and Major Governments of the 1980s and 1990s, a central plank of Tory policy was to destroy the power of organised labour by refusing to negotiate national deals. The policy of the Tory party was to impose local deals on the work force to split the power of the unions. Imagine the Labour Party now supporting local deals to split organised labour and to pit worker against worker, instead of recognising the job that the nursery workers do—

Sarah Boyack (Edinburgh Central) (Lab): Will the member give way?

Campbell Martin: No thank you. It is time that Labour started listening—you have a wee seat.

What we have now is the reality of that Tory policy being back on the agenda. What we have now is the leader of COSLA mouthing those Thatcherite words to put down the democratic rights of the nursery nurses. We have new Labour councillors arguing for local deals instead of national deals. They want to impose local deals to divide and rule a national work force. That is the situation that the nursery nurses face. We have a Labour-dominated Executive—there are no Liberal Democrats here, apart from one who has to be here because he is a minister—that is pointing the finger of blame at everyone else but is not taking responsibility for sorting out the deal that needs to be done—

Pauline McNeill: Will the member give way?

Campbell Martin: You have a wee seat. As I said, it is time that Labour listened.

The Executive will not take responsibility for resolving the dispute and letting our nursery nurses go back to where they want to be—in nurseries throughout Scotland, looking after this country's children of nursery age. Labour members should not come to the debate and say that they support the nursery nurses because, when they had a chance to support them two weeks ago, they voted against them. [*Interruption.*]

The Deputy Presiding Officer: Order. I am mindful of the fact that people in the gallery have sat responsibly for half an hour and that there has not been an interruption but, if that happens again, I will clear the gallery.

18:05

Karen Gillon (Clydesdale) (Lab): I begin by declaring my interests—as my entry in the register of members' interests shows, I am a member of Unison; I have an additional interest as the mother of two young boys, one of whom has just started nursery.

I congratulate Elaine Smith on securing the debate and pay tribute to those nursery nurses who have been in dispute, as they have conducted themselves with great dignity. From day one, my impression of the dispute is that it has been led by those nursery nurses. Carol Ball is not some daft wee lassie who has been led by the hand by some bad person in Unison headquarters. For months, Unison nursery nurses tried to secure a settlement; they did not want to enter a dispute or to go on strike. They tried to make their voice heard, but no one listened.

In part, we as a Parliament are as guilty as anyone else for not listening to those pleas from nursery nurses, which have taken the form of petitions to the Parliament and other means. I believe that COSLA fundamentally underestimated the strength of feeling that existed among nursery nurses and their desire for a fair, negotiated pay settlement.

I recognise that, in some areas, nursery nurses reached a settlement early on in the dispute—that is the case in my local authority area of South Lanarkshire—and I fully respect the right of those nursery nurses to reach that settlement. I appreciate that, in other areas, settlement has been reached more recently. There are those who say that a settlement will be reached in all areas, but I have concerns about that. I am worried that nursery nurses might be forced back to work, having accepted settlements that are not as good as those that they should have got, simply because they cannot afford to remain on strike. That goes against everything that I believe in and I hope that a resolution can be achieved before that happens.

One of my difficulties with local negotiations is that the generosity of any deal depends on the financial wealth of the council. Different councils are differently well-off and have different demands placed on them. City councils such as Glasgow City Council have complex demands placed on their resources; the difficulty with local negotiations is that that is what happens. Rightly or wrongly, our unions accepted single status and local negotiations for nursery nurses are part of that. That is where we are at.

I welcome the moves that have been made towards a national review, for which I have called since September. I believe that any national review of nursery nurses must involve the unions and the employers and that its scope must be agreed by all those parties. The Scottish Executive, too, must be involved, because the national review must be fully funded; it cannot be a soft soap or an excuse. It must be a real tool for achieving genuine change in the status of nursery nurses here in Scotland.

The Deputy Presiding Officer: We have now done our calculations and the minister has agreed to an extension of the debate, so I am willing to accept a motion without notice to extend the debate by 15 minutes. Is it agreed that a motion without notice be moved?

Members indicated agreement.

Motion moved,

That, under Rule 8.14.3, the debate be extended by 15 minutes.—[*Euan Robson.*]

The Deputy Presiding Officer: I saw Mr Robson and I heard Mr Ewing—as happens often. We will accord the moving of the motion to Mr Robson.

Motion agreed to.

18:09

Robin Harper (Lothians) (Green): I apologise for the fact that I may have to leave the debate early, because I am helping to officiate at a young people's debating competition this evening. I congratulate Elaine Smith on securing the debate and I offer my commitment to a national pay scale and a national settlement for nursery nurses.

As a teacher, I have absolute empathy with the position of the nursery nurses. As an active member of the Educational Institute of Scotland in the 1960s, the 1970s and the 1980s, I helped to organise strikes, because—like the nursery nurses—I was in a profession that was undervalued, under-recognised and underpaid.

For 100 years, there was some kind of mechanism by which to obtain national pay scales and conditions for teachers. There is plenty of experience of doing that for teachers, so there is no reason why we should not, in the same way, have a national pay scale for nursery nurses and why we should not have it within a matter of months. As members have pointed out in the debate, there is an element of urgency to the situation. Many nursery nurses might well decide to settle for less than they should get.

The debate is not just about pay; it is about society's values, women's self-esteem and their position in our society and education and development. My personal commitment and belief is that we should invest far more in the development of children at an early age than we do at present. I believe that early-years education is as important as university education. We have endless debates on university education and further education, yet we do not debate the most important element of education, which is early-years and primary education. We should devote more attention and money to that. Above all, we should respect the nursery nurses and pay them the rates that they should get for a job that is essential to the development of young people. I congratulate Elaine Smith on lodging the motion.

18:11

Dr Elaine Murray (Dumfries) (Lab): I, too, congratulate Elaine Smith on securing the debate. I also acknowledge the tenacity with which she has pursued the cause of the nursery nurses. She might not have been as strident as some people in doing so, but she has been just as dogged in her support of the nursery nurses. I am pleased that that is being recognised tonight.

I was pleased to support Elaine Smith's motion, despite the fact that nursery nurses in Dumfries and Galloway went back to work two weeks ago. I do not criticise them for making that local arrangement, as it enabled them to return to work. However, I hope that that is not the end of the story; indeed, it must not be the end, because there is a lot of unfinished business that needs to be resolved. As other members have said, it is necessary that a national review of pre-five education takes place. The review must encompass training, professional development, progression and, indeed, the relationships between the public, private and voluntary sectors.

During the dispute in my area, someone from the voluntary sector said to one of my colleagues, "I do not know what the nursery nurses are complaining about; we are even worse paid." It is a scandal that some workers are even more badly paid than local authority nursery nurses. That issue needs to be addressed.

Importantly, the motion calls for

"a Scotland-wide regrading of the role of nursery nurses"

after the structural review. There is a very strong case for a national review and a national pay structure.

Mr Campbell Martin spoke about nursery nurses "looking after" children, which was a typical man's remark. Nursery nurses do not look after children; they educate children. During the demonstration a few weeks ago, a lady called out to me and asked how my daughter was getting on. I realised that she was the nursery nurse who looked after my daughter when she was three and a half. I never thought of her as "looking after" my daughter, or as a "nursery nurse". I thought of her as a person who was educating my daughter. She is responsible at least in part for the transformation of a shy, quiet three-and-a-half-year-old into the bright, self-confident young woman of 16 that my daughter is today.

It is important to recognise that we now consider education from three to 18. Later in the session, we will discuss a three-to-18 curriculum, which is a national curriculum that will require national standards. Nursery nurses—although perhaps we should not use the term "nursery nurses", as it does not in any way describe their role—will play a vital role in the initial stage of delivering that curriculum.

Nursery nurses' salaries are inadequate, as is acknowledgement of the contribution that they make to the education of the young people on whom Scotland's future depends. We must make amends: we must recognise the tremendously important work that is done by this group of women workers and the huge contribution that they make to the future of our young people and of our nation.

18:14

Tricia Marwick (Mid Scotland and Fife) (SNP): I congratulate Elaine Smith on securing the debate. Members' business debates are quite important for the Parliament, and there is one thing that distinguishes them from other sorts of debate: at the end of this debate, there will be no vote. That means that Labour members in particular can come into the chamber and say exactly what they feel. I congratulate them on doing so. However, if push came to shove and there was a debate that was followed by a vote, the Labour Party would vote against the nursery nurses, as was the case a few weeks ago.

Elaine Smith: Will the member take an intervention?

Tricia Marwick: I am sorry—I cannot.

I apologise on behalf of Fiona Hyslop, who has had to leave the debate because of her child care situation. I also remark on the fact that, with the exception of the Deputy Minister for Education and Young People, not one Liberal Democrat member is in the chamber.

The issue of nursery nurses' pay is not new. As Jackie Baillie said, it has been an issue since 1995. For more than three and a half years, members of the Parliament have been raising questions and asking for a national review of nurses' wages and conditions. For more than three and a half years, we have been getting parliamentary answers from Executive ministers, saying that the matter is one not for them but for COSLA and the employees. There have been three and a half years when the Executive could have averted the situation that we are in now if, at any point during those three and a half years, it had taken steps and banged together some heads in COSLA, but the Executive refused to do that. Frankly, the Executive has been culpable.

There is no doubt on the part of anybody in the chamber tonight that we need a national review of the pay and conditions of nursery teachers. However, the Executive continues to maintain that it is a matter for COSLA and the employees. That has allowed local authorities to put in place local agreements. However, the Executive does have a locus to get involved. It has a locus today, and it had one three and a half years ago. It cannot expect the nursery nurses to deliver the national pre-five programme, yet at the same time say that it has no responsibility for national pay and conditions. If the Executive can commission Professor McCrone to carry out a national review of teachers' pay and conditions, it can commission a national review of nursery nurses' terms and conditions.

The issue is about women and low pay. Nobody in the chamber believes that if the dispute had

involved predominantly men, it would not have been solved three and a half years ago. Women get the double whammy: those who are on low pay and those who need the nursery care and teaching that the nursery nurses provide. It is women and young children who are suffering because of the dispute, and I urge the Executive to get its finger out and get it settled soon.

The Deputy Presiding Officer: I am grateful to Karen Whitefield for agreeing that I can call Susan Deacon before her.

18:18

Susan Deacon (Edinburgh East and Musselburgh) (Lab): I am grateful for the opportunity to speak briefly in the debate. Like other members, I apologise for needing to leave early—I have a constituency commitment. I join other members in congratulating Elaine Smith on securing tonight's debate. Like other members, I wish that it was not necessary, but it is important that we have the chance to debate the issue fully.

Like other members, I am saddened and frustrated because the dispute has happened at all, because it has gone on for so long and because of its impact on nursery nurses, their colleagues, parents and young children. I am also saddened and frustrated by those politicians who have sought to over-simplify, and often distort, the debate. Furthermore, I am saddened and frustrated by those who suggest that they somehow have a monopoly of support on the issue, or a simplistic solution to it.

Despite all that, I am hopeful, because the motion in front of us sets out part of a way forward and a lasting solution for the future. I am hopeful because of what we have heard in the debate about the prospect of Unison and COSLA coming together to move forward on the issues. I am hopeful also because of the comments that ministers have made in recent weeks, and I hope that those will be strengthened and underlined again tonight.

I hope that the minister's comments, both tonight and in future debates, will place the dispute, the experience that we have gained from it and the lessons that we will learn from it, as well as any future debate or discussion about a national review, in a much wider context.

Carolyn Leckie: Will the member take an intervention?

Susan Deacon: I am sorry—I do not have time.

I want all of us, in the chamber and beyond, to place a far greater emphasis on the early years. I agree with those who have said that the reason why this dispute has not been treated by some, including the media, as seriously as others is

perhaps the extent to which it affects women and young children, many of whom live in our poorest communities. We must work to address that situation and a far greater value must be placed on early years.

Early on in the Parliament's existence we made big commitments to give all our children the best possible start in life. A prerequisite to making that a reality must be achieving a resolution to the dispute and thereafter giving nursery nurses and others who work in the sector a fairer deal, within the context of placing a higher value on our youngest and most vulnerable citizens. That means that we must place a higher value on parenting, and support that job better, and on the professionals who care for our youngest children, and support their jobs better. If we get that right, we will be able to spend a lot less time than we do at the moment picking up the pieces when our younger citizens' lives go off the rails.

I strongly support the motion and the call to see a fair deal for our nursery nurses and an early resolution to the dispute. Most of all, I strongly support our children and I want to see us all get on with the important job of supporting the youngest members of our society and working for the betterment of the next generation, which our nursery nurses do tirelessly.

18:21

Karen Whitefield (Airdrie and Shotts) (Lab): I, too, congratulate Elaine Smith on securing the debate. I welcome the opportunity to make clear my views on the current dispute. I say to those who have called for action that action is indeed what is required, but there is no point in our voting on the matter, because we cannot take the actions that people have called for; it is unfortunate that local authorities make the decisions in this case.

Frances Curran (West of Scotland) (SSP): Will the member give way?

Karen Whitefield: No. I am sorry, but I am not going to take an intervention. Local authorities will have to get round the table with the trade unions and listen to their legitimate concerns and requests.

There is no doubt in my mind that the role of the nursery nurse has increased in importance in the past few years. Thanks to Labour policies, more children enjoy free nursery care now than ever before. That early educational experience provides an invaluable link to primary education and an equally invaluable child-care service for many working parents—a fact that has become painfully apparent during the current strike. Nursery nurses are at the centre of the service. They create a caring and stimulating learning and recreational environment, which is the hallmark of nursery

provision in the 21st century. Their commitment to and enthusiasm for working with young children ensures that pre-fives in Scotland are given every possible opportunity at the start of their education.

I accept fully nursery nurses' claim that their role has changed over the past few years and I support their claim for a fair pay rise. I agree with the comments that the First Minister made yesterday: both the employers and Unison must get back round the table and make serious attempts to resolve the dispute. I also agree that there should be a national review of nursery nurses' position. At the centre of such a review must be a consideration of issues of pay, grading, career progression and conditions of service. Only with a national review will we ensure that we end up with a national framework for pay. A consistent approach to the issue should be taken throughout Scotland.

I spoke recently to striking nursery nurses in my constituency and I know that they do not want to be out on strike and that it pains them to think of the damage that the strike is causing the children with whom they work, but they feel that they have no choice.

I am pleased to learn that COSLA has agreed finally to get round the table with the trade unions. It is essential that they work for an immediate resolution to the dispute. Nursery nurses deserve that, parents deserve it and, most important, the children of Scotland deserve it.

18:25

Helen Eadie (Dunfermline East) (Lab): I add my congratulations to Elaine Smith on securing this important debate. The key point is that no party has a monopoly on concerns about our nursery workers across the land. In recent weeks and months, many of my colleagues—Cathy Peattie and others—who have not been mentioned have convened meetings behind the scenes and have worked hard alongside other colleagues whom I will not mention for fear of embarrassing them. Only last week or the week before, we had one of the ministers cornered in a room with a number of women. Members can imagine the pained expression on that minister's face when that happened.

Labour members have ways of getting their points across; we need no lectures from Shona Robison or her colleagues about whether the Labour party is attending to the issue. The specific issue is clearly laid out in Unison's documents. Unison is after a new job description with a clear career path. Fundamentally, it is after a national review. I pledge my support to Unison, along with the support of other members who have attended this debate. We need no lectures from SNP

colleagues sitting at the back of the chamber on trade union issues. Where were the SNP members when it came to voting through the minimum pay legislation at Westminster? They were not in the chamber. If they want to talk to me about this, I will talk to them about that. The SNP has nothing to teach us when it comes to supporting the trade unions.

Like no other Government, Labour has invested massively in child care. We must value and give credit to the nursery workers—they deserve that. We have always said, as Robin Harper noted at the beginning of the debate, that we must value children and treat them as we should. A Jesuit priest once said, “Give me a child till the age of seven and I’ll give you the man.” We need to value the nursery workers and the children. Society wins through that and so do we.

18:27

Cathy Peattie (Falkirk East) (Lab): Many members, including many of my sisters on the Labour benches, have campaigned long and hard for good child care. It is, therefore, of real concern that the nursery nurses’ dispute is still under way.

I understand the issues around the single status agreement, but I do not understand or agree with the need for local bargaining. To me, as a trade unionist, local bargaining means divide and rule. I do not understand why a body such as COSLA, which is an umbrella organisation for local authorities, should work in that way. It should work collectively. I welcome the fact that COSLA and Unison are going to work together to try to find a resolution. It is clear to me that local bargaining would be quite unacceptable for teachers, firefighters and other professions.

However, we are where we are. I welcome the move towards a full national review involving trade unions, nursery nurses, local authorities and parents. I hope that it will achieve real recognition for nursery nurses, facilitate training and personal development and recognise nursery nurses as educators. They are not just folk who mind the bairns and wipe backsides; they are there to educate our children. I hope that the national review will provide a clear career path for nursery nurses.

As Elaine Smith said, we must also challenge the notion that women workers should be low paid and the notion that only women can work with bairns. We need to think about career paths not only for young women, but for young men, in working with children. Therefore, as I said earlier, I welcome the First Minister’s intervention. I would have liked it to come earlier, but it is a positive step and it is positive that Unison and COSLA are getting around the table.

Carolyn Leckie: Will the member take an intervention?

Cathy Peattie: No, I will not.

I thank Elaine Smith for securing the debate and I thank all members who have participated in it.

18:29

The Minister for Education and Young People (Peter Peacock): I welcome the chance to respond to the debate that Elaine Smith has sponsored and, like other members, I congratulate her on securing it. The measured tones and constructive way in which she tackled the matter were in stark contrast to speeches by other members. What she said also reflected her long-abiding commitment to the early-years sector—not only to nursery nurses, but to child-care workers and play workers. It also reflected her commitment to women’s causes and equality issues, which are part of the issue that we are debating.

She rightly pointed out that women make up the predominant part of the early-years sector’s work force. As Cathy Peattie said, that is one issue that we want to tackle in our agenda. I hope to lay out that agenda for members in reasonable depth. Obviously, it will not be possible for me to address all the points that have been made in such a long debate; however, unlike some members who have contributed to the debate, I will try to respond in measured tones.

We have had several debates on the subject in the past few weeks; Elaine Smith was right that she has provided a much longer period for debate by the mechanism that she has used than was possible in the other debates. It is rather sad that we have had three big debates—to the extent that they have been big debates—about the sector only as a result of an industrial dispute.

Carolyn Leckie: Will the minister give way?

Peter Peacock: No, I will not.

We must ensure that we debate early-years provision in the round once we are beyond the current situation so that we can ensure that we make a full contribution through parliamentary debate in the future. That reflects what other members have said. I say that because there is much to be positive about in the early-years sector. Since 1997 when the Executive came to power, there has been massive investment in the early-years sector of close to £1 billion.

Shona Robison: Will the minister give way?

Peter Peacock: No.

I say to Campbell Martin that that is nowhere near a Thatcherite policy. I do not want to be discordant, but the Tories’ education legacy was

shameful. We did four things when we came to power: we wanted to ensure, with our Liberal Democrat colleagues in Scotland, that we would sort out the legislative base for education, the school estate and the remuneration of teachers because those matters had not received attention, and we wanted to ensure that the nursery sector and the early-years sector would expand dramatically because they are one of the foundations for creating success in Scotland's future. That was a clear commitment from the Executive and it is one in which we will continue to invest in the future.

As a consequence of such investment, there has been a huge expansion in the number of nursery places in Scotland—some 26,000 people now work in the sector. I suspect that it has been the single biggest growth area in the Scottish economy in the period. We should be proud of what has been achieved and of what early-years workers have achieved on our behalf. Their professionalism and dedication to the tasks that they undertake are widely admired and they will have much more to offer in the coming years. As I said, they work with our children at a crucial stage in their development and help them to get the best possible start in life and to get the foundations of their learning right. From there, our children can prosper for the rest of their lives. The nursery sector is therefore fundamental to our objectives. What members from all parties have said demonstrates the widespread recognition of the sector's role.

We face many challenges relating to consolidating the sector and investing more in infrastructure. That will bring increasing professional recognition and all that flows from it—which members have hinted at—precisely because the sector has grown so quickly and so much, with the diversity of early-years workers working in the public sector, through local authorities, in the private sector and in the voluntary sector. Like all members, I want to see our early-years work force being paid fair salaries in the future, and at sustainable levels.

Carolyn Leckie: Will the minister take an intervention?

Peter Peacock: No—I will not give way.

It frustrates me deeply that the dispute has gone on for so long but, like others, I welcome the fact that progress seems to have been made today and that COSLA and Unison have agreed to sit down next week for discussions. I hope that that will result in the quick resolution of the outstanding issues by those organisations through discussions and negotiations with member councils.

It should be clear to members that the Executive wants to do much more to support and develop

the sector. We have been clear that we want to get on with the national level—I stress: the national level—review of the sector that is needed to underpin the long-term success of the sector and the rewards that it offers its workers. It is sad that events over recent months have not created the climate for that work to proceed.

Carolyn Leckie: Will the minister take an intervention?

Peter Peacock: I have said that I will not give way. We have had a long debate and I am trying to respond to the points that have been made.

As members mentioned, we need all the parties who are involved to sit around the same table to address the current and future needs of the sector—that includes trade unions and employers.

Some elements of our programme of improvement are already in place, which is why we have allocated £13 million of work force development funding. We will allocate £12 million more during the next two years to help workers to access qualifications. They will need to register with the Scottish Social Services Council. I am clear that the status of the sector should be higher than it is at present. As members mentioned in previous debates, registration with the Scottish Social Services Council will go some way towards helping with that, as will the fair pay settlements that we want to see.

Nursery nurses and the rest of the early-years work force need a proper career structure—as members mentioned tonight—including the possibility of promotion and the opportunity to move into related work areas. They need a proper career structure and they need career pathways to be opened up for them and secured for the future. For example, we need to create the option for a nursery nurse to become a play worker without having to completely retrain and start again. There are other examples, such as the move to becoming a classroom assistant and moves into teaching or social work. We need to create a structure that allows progression, latitude and scope for people to move through different aspects of early-years work and beyond, without having to start again at the bottom of the ladder.

They—the workers—and we need better national work force planning. To pick up points that Cathy Peattie and others made, we need to ensure that more men go into the profession, and that we have better representation of ethnic minority groups and other groups in society that are under-represented in the work force. The national exercise that we want to get on with will need to examine current and future roles and responsibilities in the sector, along with the knowledge, skills and competencies that are required to deliver those roles. That work will

inform the examination of the qualifications framework that we also need to get on with, which will consider the content of qualifications and will build on the developments that Margaret Jamieson referred to tonight and in the previous debates.

Tricia Marwick: Will the minister give way?

The Deputy Presiding Officer: The minister has made it clear that he is not giving way.

Peter Peacock: We need to consider the level of qualifications, the need for new qualifications, and the need for articulation with the qualifications framework for related children's services—I stress again that that includes teachers, classroom assistants, care assistants and so on. As I said, we also want to look at ways to establish clear career structures for workers in the sector; other professions provide opportunities for career progression and lateral movement.

Carolyn Leckie: Will the minister give way?

The Deputy Presiding Officer: Order.

Peter Peacock: I have made it perfectly clear that I am not going to take interventions.

Other professions provide scope to develop in different directions within broad professional groupings: a career in early education and child care should be no different. To achieve that, we need the rationalised and modernised qualifications framework that I touched on, which will take proper account of the integrated children's services agenda that we in the Executive are working to achieve. The review that we want also needs to clarify the required size and characteristics of the work force, to enable us to determine the future demand for training providers, recruitment levels and associated financial issues.

The members in the chamber should be clear that the implications of all the work that I have set out tonight—there is much more to set out—will draw into focus at national level the key issues about pay and conditions that the First Minister outlined and which Elaine Smith referred to in her speech. That will serve our communities and the people who work in the sector well as we develop that strand of work. As soon as the dispute concludes, I stand ready to trigger the work that I set out tonight, to take forward our review.

Ultimately, all industrial action is ended through negotiation between representatives of the work force and employers, and the current dispute, too, needs to end through that process. I welcome the progress that was reported today and I wish next week's talks well. I do not care at what level the talks proceed; we need to find a solution, and that is what we want. We can then get on with all the work that I outlined tonight and move the sector decisively into the future with much greater

stability, much greater professional recognition and all the rewards that go with that. That is the route to the stronger sector that we want, with fitting rewards for the professionalism and dedication of those who work in it. I look forward to getting on with that work as quickly as possible.

Tricia Marwick: On a point of order, Presiding Officer. What we heard from the minister tonight was, in effect, a ministerial statement about the nursery nurses, the sector and what the Executive intends to do in the future. Not only has the minister not taken any interventions—

The Deputy Presiding Officer: I am sorry, but that is not a point of order. It is another speech, and there is no basis for it.

Tricia Marwick: It is not a speech. It is a serious point of order, Presiding Officer, because in effect we heard a ministerial statement on which we have not been allowed to ask any questions.

The Deputy Presiding Officer: I am not prepared to have this. The member must resume her seat. The minister responded to the points that were made in the debate. He spoke entirely properly and I will not prolong the debate further.

That concludes today's business. I thank the public in the gallery for their co-operation during the debate.

Meeting closed at 18:40.

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