

MEETING OF THE PARLIAMENT

Thursday 30 September 2004

Session 2

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Scottish Parliament

Thursday 30 September 2004

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

Health Services

The Presiding Officer (Mr George Reid): The first item of business is a debate on motion S2M-1784, in the name of David Davidson, on the centralisation of health services, and three amendments to the motion.

09:30

Mr David Davidson (North East Scotland) (Con): The Scottish Conservatives have once again brought a health debate to the Parliament. It is our third health debate in this session of the Parliament—they have been the only ones on the subject from Opposition parties. Scotland is up in arms about threats to local health services as a result of the Minister for Health and Community Care's centralisation agenda. Not one member can have missed that point. We listen to the people of Scotland, which is why we are using our parliamentary time to debate what is an issue of growing national importance.

Many Labour members, with the support of others, have lodged motions criticising centralisation. Today, Scotland will examine how each and every MSP represents their constituents on the threats. I will set the scene and leave my colleagues to detail specific problems. Scotland's health care system is better resourced than that in any other part of the United Kingdom. The national health service budget is more than £1,400 per head and will be even higher under the proposals that the Minister for Finance and Public Services outlined yesterday. No one could argue that the Executive has not spent more money, but we do not see what is coming from the spending.

Given the financial context, it is incredible that Labour and the Liberal Democrats have managed to get the Scottish national health service into such a mess. The situation is certainly not the fault of front-line staff, who are dedicated and loyal. The percentage of out-patients who are seen within six weeks is down 6 per cent; the number of people on waiting lists has increased by 25 per cent; the percentage of in-patients who are seen within three months is down by 12 per cent; total hospital discharges are down by 11 per cent; and there has been a 28 per cent increase in hospital administrative and clerical staff, compared to a mere 7 per cent increase in nurses and a 2 per cent increase in general practitioners, with many consultant posts unfilled. Those are the minister's own figures.

The latest crisis, which is the reason why we are here today, arises because of the threats that face an alarming number of health services throughout the country, particularly services that are needed in emergencies. It is not only the Scottish people and the Scottish Conservatives who see the situation as a problem; even Charles Kennedy stated recently:

"Scotland is in uproar from coast to coast over hospital reorganisation plans".

A stalwart Labour member of Parliament, Robin Cook, said in the *Edinburgh Evening News* recently that he believes that the process is part of

"a strategy of centralising services at a handful of elite hospitals."

I do not normally agree with Mr Cook, but I might make an exception today.

In Jamie Stone's constituency, threats of closure hang over the consultant-led maternity services at Caithness general hospital, which could result in mothers travelling 100 miles on bad roads in bad weather to Raigmore hospital in Inverness to give birth. The proposals in Duncan McNeil's constituency could signal the end for the Inverclyde royal hospital's accident and emergency department, along with all surgery, which will force patients to travel to Paisley instead. In Bristow Muldoon's constituency, emergency general surgery has already been transferred from St John's hospital to the Edinburgh royal infirmary. There are also threats to the Queen Mother's hospital in Glasgow, the Balfour hospital in Kirkwall, Western Isles hospital, Perth royal infirmary, Falkirk and district royal infirmary, Stobhill hospital and Hairmyres hospital. I could go on with the litany, but I do not have enough time.

Helen Eadie (Dunfermline East) (Lab): Will the member take an intervention?

Mr Davidson: In a moment.

We must ask why so many services are facing threats, given that so much extra money has been put into the health service in Scotland. I put it to members that the chief culprit is the continuing centralisation of services. The Scottish Conservatives have accused the Labour and Liberal Democrat parties of centralising the NHS for the past five years and now even members of those parties are becoming concerned.

George Lyon (Argyll and Bute) (LD): Many of the changes are being driven by the need to improve patient safety. The Royal College of Surgeons is insistent that surgeons should carry out a certain number of operations to ensure that their skill levels are high and that there should be specialisation, and junior doctors' hours have been reduced from more than 100 hours a week under

the Conservative Administration to 56 hours a week. How would the Tories tackle those challenges?

Mr Davidson: Where does Mr Lyon sit? Is he trying to save his local services or the minister?

Robin Cook and Charles Kennedy have criticised the Executive and an increasing number of Labour and Liberal Democrat MSPs and MPs are voicing their disquiet in parliamentary motions and in the press. Duncan McNeil's motion on maternity services in the Argyll and Clyde NHS Board area, which mentioned the need to

"stop the march towards the centralisation of NHS services",

received the support of 11 Labour MSPs and one Liberal Democrat member. The march towards centralisation is the direct responsibility of Labour, the Liberal Democrats and the Scottish National Party. The merger of NHS trusts in 1999 was supported at Westminster by Labour, the Liberal Democrats and the SNP, and those same parties supported the complete abolition of trusts in this Parliament, while only the Conservatives opposed that measure. Those moves were the beginning of the loss of local control and of the move to the centralisation of services.

When the First Minister informed us at First Minister's question time last week that he wants to reduce the number of health boards even further, everybody realised that the writing was on the wall for any form of local input into the management of health services. Given that the Minister for Health and Community Care appoints health board chairmen to deliver his policy—that is what they say—that puts almost every decision in the NHS on his desk.

Dr Sylvia Jackson (Stirling) (Lab): Will the member take up George Lyon's point about unsafe services? In my area, paediatrics and other services would have been unsafe unless we brought the hospitals in Falkirk and Stirling together. What would be the Conservative's answer to the problem of unsafe services?

Mr Davidson: I recall being in a members' business debate with Sylvia Jackson in which she supported my argument that moving accident and emergency services to a new site was no use to people in the north of her constituency. I recall that she was supportive of my point.

The truth is that no trusts plus fewer health boards equals more centralisation. This week, I visited the Belford hospital and the Lorne and Islands district general hospital and was impressed by their wish to co-operate to provide emergency overnight care for their communities. If the solutions group, which reports tomorrow morning, recommends that measure, it will not be

the hospitals or local managers and clinicians who make the decision. Two separate decisions will have to be made: one by Highland NHS Board and one by Argyll and Clyde NHS Board. We have a situation in which local cross-border solutions to deliver care are available, but they cannot be decided upon locally. That is what centralisation means.

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): Many of the difficulties that face local health boards, and all of us, come from the European working time directive, which was brought in under the Conservatives, who had several years to deal with its impact. What exactly did the Tories do to prepare for the impact of the directive?

Mr Davidson: Very simply, the working time directive has been ignored totally during the seven years plus in which Labour and latterly the Liberal Democrats have been in power. Why did those parties not apply for the derogation that we were seeking when we lost power? Those parties must answer that question.

We hear a lot about closures for reasons of clinical safety, but in real terms, that safety is dependent on what some people call the golden hour or the platinum half hour in which access to emergency care is required. That issue lies behind much of the debate. We recommended foundation hospitals, which seem to be delivering for English patients. Why can Scottish patients not have something similar? In England, ministers who represent Scottish seats have happily introduced a modernising agenda to improve access to care and deliver care more quickly. Why are minds closed against that here?

We need systematic reform. We need reform that gives power back to patients and professionals, not politicians. Many of the recommendations that we have made consistently since the establishment of the Scottish Parliament would have been beneficial, if they had been listened to. Ultimately, local services need greater operational freedom, unencumbered by interference from the centre. We have said that time and again and seem to be the only party that listens to that message.

Malcolm Chisholm has been at the helm of the Scottish health service for the past three years. He oversaw the centralisation of the Scottish health service—I think that he admitted that on the radio this morning. How, then, can Malcolm Chisholm be trusted to fix the mess that he has got us into?

I gather that this will be a well packed debate, so I will not push my time. However, I can say that Pauline McNeill, Duncan McNeil, Jamie Stone, Jackie Baillie, Bristow Muldoon, Elaine Smith, Trish Godman, Bill Butler, Ken Macintosh, Mike

Watson, Wendy Alexander, Janis Hughes, Helen Eadie, George Lyon, Elaine Murray, Marilyn Livingstone, Cathie Craigie, Karen Gillon and doubtless other Labour and Liberal Democrat MSPs, have voiced concern in their local newspapers about the threats of closure.

Helen Eadie: Will the member take an intervention? He is telling lies.

The Presiding Officer: Order. Not that word.

Mr Davidson: There is a simple choice to be made. Those members whose names I have mentioned can back their people and their local hospital or they can back Malcolm Chisholm. It is make-your-mind-up time for them. Will they save local hospitals or save Malcolm Chisholm?

I move,

That the Parliament is opposed to the centralisation of health services across Scotland; notes the threat facing many local hospital services including those at Caithness General Hospital, Western Isles Hospital, Lorne and Islands District General Hospital, Belford Hospital, Inverclyde Royal Hospital, the Vale of Leven Hospital, St John's Hospital, Stobhill Hospital, the Victoria Infirmary, the Western Infirmary, Wishaw General Hospital, Hairmyres Hospital, Glasgow Homeopathic Hospital, Queen Mother's Hospital, Ayr Hospital, Perth Royal Infirmary, Forth Park Hospital, Queen Margaret Hospital, Stirling Royal Infirmary, Falkirk Royal Infirmary, Monklands Hospital and Balfour Hospital and the additional threat to many community and long-term care hospitals right across Scotland; believes that this is part of a strategy of centralising services at a handful of elite hospitals which has led to uproar from coast to coast over hospital reorganisation plans, and therefore has no confidence in the ability of the Minister for Health and Community Care to devise and implement a strategy for the NHS which serves the needs of local communities throughout Scotland.

09:42

The Minister for Health and Community Care (Malcolm Chisholm): I thank the Conservatives for giving me the opportunity to expose the omissions, contradictions and distortions that characterise their position on health. However, what can we expect from a party whose spokesman has convinced himself that he heard me on the radio this morning?

The Conservatives' omissions relate to the fact that they are silent about their real intentions, which are about ending national health service provision based on need and giving preferential treatment to those who can afford to pay. Their contradictions relate to the fact that they reject all clinical arguments for service change while, in their election manifesto, they trumpet more say for doctors in how the NHS is run. Their distortions relate to the fact that they have invented a position for us, particularly on centralisation, that bears absolutely no relationship to anything that we have ever said or done.

In the interest of the avoidance of distortion, I repeat the following statements. The maximum amount of care that can safely be kept local will be kept local. Some services, but not of course all services, can be most safely and effectively delivered by clinical teams in specialist settings. Up to 90 per cent of all patient care is provided by doctors, nurses and allied health professionals in the community and, increasingly, the management of chronic disease and some acute care is happening there. The regional and national dimensions are crucial and we are therefore requiring boards to plan services more effectively across board boundaries that are of no interest to patients. Several months ago I set up an expert group to develop a national framework for service change, since we believe in a national health service, not a centralised one, nor the privatised and fragmented one that the Conservatives believe in, which would make the maintenance of local services far more difficult. I will not make decisions on new proposals that come before me until the group has reported, unless there are genuine issues of clinical safety. In response to the proposals of NHS boards, I can say no as well as yes. Finally, I have a great deal of control over those issues, but do not and should not have control over what is the proper training supervision for junior doctors.

There is, of course, no strategy to centralise services in a handful of elite hospitals, as the motion states. However, who would believe a word that the Conservatives say about health, in a parliamentary motion or anywhere else?

David McLetchie (Edinburgh Pentlands) (Con): It is timely that the minister has allowed me to intervene at the point in his speech when he noted that the motion talked of

"a strategy of centralising services at a handful of elite hospitals",

because those are the words not of a member of the Conservative party, but of the minister's colleague, Robin Cook MP. Can the minister tell us whether Robin Cook is battling to save St John's hospital services? Is Robin Cook guilty of deception and distortion?

Malcolm Chisholm: The point that I made a few moments ago about the fact that, rightly, I do not have control over what is the proper training supervision for junior doctors answers the point about St John's hospital.

Mr John Swinney (North Tayside) (SNP): Will the minister give way?

Malcolm Chisholm: I have no time at the moment.

The list of hospitals in the motion is also a simplistic distortion. Of course, there are

controversial proposals for service change in some of the hospitals listed, but most of them have not yet come to me for consideration and many are still under discussion. For example, the solutions group chaired by Baroness Michie is working constructively across board boundaries to keep as many services as possible in Fort William and Oban. I support that objective. Two Forth valley hospitals are mentioned in the list, but there is silence about the splendid new hospital that is planned—referred to by Sylvia Jackson—and which could not come too quickly for Dennis Canavan at question time last week.

Further, while Perth is mentioned in the motion, having lost its consultant-led maternity unit, nothing is said about the wide range of new services that Perth is to receive, including an oncology and haematology centre, a kidney dialysis unit and an acute stroke unit, or about the repatriation of 3,000 in-patient and 10,000 out-patient episodes from Ninewells to Perth. That is the two-way movement that we want, with some services moving appropriately into more specialist settings, in accordance with clinical safety and quality care, while others move in the opposite direction to local hospitals and community settings.

Mary Scanlon (Highlands and Islands) (Con): Will the minister give way?

Malcolm Chisholm: If I have time at the end, I will.

The Queen Mother's hospital is also on the list. As I have said repeatedly, I have been giving a great deal of consideration over the summer to maternity services in Glasgow and have had a series of visits and meetings with doctors, nurses and midwives. I have been listening with great care to the various clinical arguments and to the large body of public opinion that has been expressed on this matter. As a result, I am persuaded of the clinical case for having a maternity unit alongside specialist paediatric services. I recognise that the Queen Mother's hospital and Yorkhill provide an important national service for the whole of Scotland and I am determined that such a service should and will continue.

At the same time, I recognise the clinical arguments for having a maternity unit on the same site as adult clinical services, which were recognised by Greater Glasgow NHS Board.

Ms Sandra White (Glasgow) (SNP): Will the minister take an intervention?

Malcolm Chisholm: I do not have time at the moment.

I have therefore concluded, as did many who responded to the consultation, that the gold-

standard solution is a triple co-location of paediatric, maternity and adult clinical services. Following the spending review announcement yesterday, I am able to make £100 million available to enable Glasgow to hasten the development of such a service, hopefully within five years.

I am also appointing an advisory group that will have strong clinical representation from Glasgow and further afield as well as public and user involvement. It will monitor plans for the co-location of paediatric, maternity and adult clinical services, carry out an option appraisal of possible sites and ensure that there is no diminution in the quality of care available to mothers and children up to the time that the new gold-standard service is up and running.

Nicola Sturgeon (Glasgow) (SNP): Will the minister give way?

Malcolm Chisholm: I have no time. I must finish making these points.

I am confident that Greater Glasgow NHS Board will co-operate whole-heartedly with the advisory group. If there is any doubt that that is happening, as minister, I have powers to direct the board. I am also confident that clinicians will co-operate across the different maternity sites.

Pauline McNeill (Glasgow Kelvin) (Lab): May I be the first to say that I think that Malcolm Chisholm is a brave health minister and that the families of Scotland will be indebted to him for the decision that he is about to make. Does the minister agree that that is the decision that matters and that it is an important decision for families and the future of children's services in Scotland?

Malcolm Chisholm: I agree, and pay tribute to Pauline McNeill, who has led the campaign for the Queen Mother's hospital in the Parliament.

Ms White: Will the minister give way?

Malcolm Chisholm: I am in my last minute.

If there are difficulties with staffing three units in the intervening period, or if there are other developments that are relevant to the continuing viability of three units, the group will advise on how those issues should be resolved without diminution of the quality of care. I hope that members will welcome that announcement and recognise that it injects a dose of reality into the simplistic distortions of the Conservative motion.

While the Conservatives strive to make political capital out of difficult health issues, we listen to clinicians and the public and act in the interests of patients. While they conceal their plans to end universal health care for all, we act on our principles of fairness for all and quality health care based on need. While they forget the rock bottom

level of hospital investment in the 1980s and 1990s, we carry on with the largest hospital building and development programme in the history of the NHS. The people of Scotland know what the dividing lines are and they will reject the Conservatives as surely as we reject this ridiculous and ignorant motion.

I move amendment S2M-1784.3, to leave out from "is opposed" to end and insert:

"acknowledges public concern about the extent of proposed centralisation of health services across Scotland; believes that improvement is essential to ensure that all patients have access to both high-quality specialist services and appropriate medical care delivered locally; recognises that NHS boards must pursue clinical strategies which demonstrate regional planning; notes that boundaries are irrelevant to patients; welcomes the determination of the Scottish Executive to develop the planning of healthcare services across NHS board boundaries, within the context of a national strategy; notes the work of the Parliament's Health Committee on this issue; welcomes the decision of the Minister for Health and Community Care to make no decision on new proposals for service change that come before him until such times as the Expert Advisory Group chaired by Professor David Kerr has reported; notes that this provides an opportunity to debate what services are best provided locally, regionally and nationally and that the presumption in the interim is that services will be maintained unless there are genuine issues of clinical safety, agreed by the Minister; affirms the Executive policy outlined in *Partnership for Care* that the patient must be at the centre of the process, and supports a patient-centred policy that acknowledges safety and quality and that also ensures that as many services as possible are provided locally."

09:51

Shona Robison (Dundee East) (SNP): I begin by welcoming the news that the Queen Mother's maternity hospital will remain open, if that is what the minister means. He seemed to indicate that he thought that the consultation process was flawed. I say to him that many consultation processes the length and breadth of Scotland have been equally flawed. I hope that he will examine those other flawed consultations and review the decisions that were made.

Throughout Scotland there is widespread concern about the centralisation of our health services. Today, the Parliament has an opportunity to listen to those concerns and act on them. When we came into this new building, there was a sense of change and of being able to do things differently. We want to build consensus around issues of great importance to the people whom we represent and the amendment in my name seeks to do just that. The fact that Jean Turner will close the debate is significant because it signals a departure from the usual party politics in the chamber, but the very fact that she is here should remind every one of us how important the issue of hospital closures is to communities throughout Scotland.

From Caithness to Fort William, from Greenock and Inverclyde to St John's in Livingston, to name but a few, communities are seeing their hospitals close or be downgraded by unelected, unaccountable health boards under a health minister who seems powerless or unwilling to intervene. We are where we are, and this is the best opportunity that the Parliament will have to do what Robin Cook said and stop the madness. We should make it clear to the Executive that the Parliament has a different view on the way forward for our health service. I heard the minister's pledges this morning, but to admit that reform can lead to centralisation is to admit only that there is a problem. I say to him that we are looking for solutions. To say that it is good for health boards to work together across boundaries is to state the obvious. The minister reiterated the contents of a letter on new proposals that was sent to the Health Committee two weeks ago, but that was just a restatement of what we already know. Everyone knows that there is nothing new in the minister's pledges.

There must be a halt to any further dismantling of our health service until we agree what type of health service Scotland—with a population of 5 million people in urban and rural areas—actually requires. If one started with a blank sheet of paper, one would not design the health service that we have or the way that it is going. It does not have to be this way; there are plenty of international examples of different health service models. We must start to challenge the perceived wisdom of those who tell us that they know best. The SNP amendment in my name gives the Parliament the best opportunity to speak with one voice on the subject and signal that the Parliament is listening. The amendment uses the wording of motion S2M-1656, as amended by Bristow Muldoon. Jean Turner lodged motion S2M-1656 on 7 September and it was signed by 35 members representing six out of the seven political parties and independent members.

Tommy Sheridan (Glasgow) (SSP): Does the member share my deep dismay at the breaking of an agreement that we thought we had made with Annabel Goldie, on behalf of the Conservatives, in Kirkintilloch? It appeared that we had all agreed that the first party to have the chance of a debate would write an amendment that could unite the Parliament, but the Tories broke that agreement.

Shona Robison: I hope that we still have the chance to do that; the Tories could rally around the amendment in my name and I call on them to do so.

My amendment seeks to suspend—

Miss Annabel Goldie (West of Scotland) (Con): Will the member take an intervention?

Shona Robison: I will take an intervention later.

My amendment seeks to suspend all planned reorganisation while a national strategy is developed. Bristow Muldoon's amendment, which leaves Jean Turner's motion intact—

Miss Goldie: On a point of order, Presiding Officer. An allegation has been made against me in the chamber and I require an opportunity to respond to it.

The Presiding Officer: I think that it is reasonable for Miss Goldie to have a chance to answer.

Miss Goldie: I am grateful, Presiding Officer. I say to Mr Sheridan that my recollection of the meeting in Kirkintilloch does not accord with his recollection. I certainly remember—

Mr John Swinney: This is outrageous.

The Presiding Officer: Order. Mr Swinney, please.

Miss Goldie: I certainly remember that there was agreement that we should try to find a form of words that might attract all-party support, but I do not recall giving a commitment to debate the matter in my party's debating time. It is not within my gift to do so; I could not commit to debate a motion whose terms I did not know, nor could I commit my party to debate a motion at a time when I had no idea what circumstances would prevail.

The Presiding Officer: We have cleared that. We put that to one side. You have an extra two minutes, Miss Robison.

Shona Robison: I should think so too, given that it was not my point of order.

I return to the important issue in the debate. Bristow Muldoon's amendment S2M-1656.1 leaves Jean Turner's motion intact, but takes it a stage further and calls on the health minister to reinstate any services

"that have been withdrawn without full public consultation and ministerial approval."

That amendment was signed by several members, including Margaret Jamieson. Members from every party in the chamber, and members of no party, support my amendment. I say to the Tories that the terms of their motion, which involve a vote of no confidence in the Minister for Health and Community Care, make it impossible for the Executive parties to support it. It excludes too many people. If the Tories' motion is voted down, as I suspect that it will be, I urge them to support the amendment in my name to try to salvage something from this debate.

I say to the Scottish Socialist Party that although its amendment is well intentioned, it will not attract

the necessary support in the chamber. I say to Labour and Liberal Democrat members that the Executive amendment provides, at best, only some comfort on some new proposals for service change—such as those in Argyll and Clyde—that will come before the minister between now and March, when the expert group will report. Although I welcomed that at the time as evidence of some movement from the health minister, it does not go far enough. It is clear that Bristow Muldoon and Margaret Jamieson do not think so either, and the Executive amendment provides no comfort to hospitals such as St John's, which has just lost its emergency surgery provision. The minister's letter provides no comfort to services that could close without ministerial approval or services where ministerial approval has been given but service cuts have not been implemented.

It is impossible to have a debate about the future of the health service in Scotland when local communities are seeing cuts to their local hospitals go ahead at the same time. As Duncan McNeil said, this is not just about Argyll and Clyde; it is about services across Scotland. For the sake of those services, I urge every member of this Parliament to support the amendment in my name so that a clear signal is sent to the health minister that the Parliament speaks as one voice on the matter and supports communities the length and breadth of Scotland that are concerned about the future of their health services.

I move amendment S2M-1784.2, to leave out from "is opposed" to end and insert:

"is concerned about the centralisation of health services across Scotland; believes that there must be a clear national strategy for the future structure of the NHS in Scotland; therefore calls on the Scottish Executive to suspend all planned reorganisations while a national strategy is developed involving the public and health professionals, and calls on the Minister for Health and Community Care to issue instructions to NHS boards to put in place appropriate arrangements to retain services faced with centralisation and reinstate any that have been withdrawn without full public consultation and ministerial approval."

09:59

Carolyn Leckie (Central Scotland) (SSP): At last we have a debate on this issue. I start by welcoming what seems to be a decision to retain the Queen Mother's hospital, but the question remains unanswered: will the Minister for Health and Community Care retain three maternity units in Glasgow? To do so is the only answer, because we cannot trade off the Queen Mother's for the Southern general hospital.

This should be a mature and intelligent debate, but the Tories could not resist turning it into a joke. When nearly the whole country is up in arms about local services and the failure to plan NHS services

in such a way as to meet the needs of urban and rural communities alike, the Tories want a free-for-all—not for patients, but for the private profiteers. Can they spell out just how, if there is no plan to take account of the needs of rural and urban communities, a passport will get me an emergency Caesarean section in Wick?

David McLetchie: Will the member give way so that I can tell her?

Carolyn Leckie: No. I want to move away from the joke and on to the intelligent debate.

Community campaigners, health professionals and medical staff who are not embedded in the establishment royal colleges are rightly fed up both with the arch-centralisers in health boards and at the top of the medical profession and with the Executive advisers who act as if they have a monopoly of understanding of the complexities of the debate—their arrogance alone would set communities against them.

The debate needs to start from an acknowledgment of the truth. We would not be in this mess if it were not for Tories, trusts, three years of Tory spending plans under Labour, the private finance initiative by which money seeps out faster than it goes in, pharmaceuticals' profits and the myriad other means by which public money becomes private profit. There has been a failure to plan a work force that is appropriate to Scotland's demography and geography and to take account of the working time directive. There has also been a failure to do anything to reverse the incidence of ill health, which can generally be explained by one word—poverty.

Johann Lamont (Glasgow Pollok) (Lab): On the need for truth and for a serious debate, does the member accept that Glasgow, which is the city that is best served for hospitals, also has the poorest health and the lowest life expectancy? The debate should be about not just buildings and services, but how we address ill health, which is often worse the closer people are to a hospital.

Carolyn Leckie: Try telling that to the patients in Glasgow royal infirmary and Stobhill hospital who have to hang around for hours waiting on trolleys because no one can see to them.

Anyone who reads the letters pages in *The Herald* or who has read the work of Allyson Pollock or Matthew Dunnigan knows that the claims for biggest being best and safest do not stand up. Clinical outcomes might improve in specific examples, but there are no data to support the extrapolation of those outcomes to all health specialties including general medical and surgical health care. Nevertheless, current health board plans are set to rip up years of development of excellent services on the basis of an unproven premise. Evidence from the Government's own

data suggests that local and general is at least as safe and, given the incidence of MRSA in big hospitals, probably safer.

Health is not just about the physical. There are no qualitative data to measure the psychological or sociological damage to people's health that is caused by reduced access to services, but we can all give horrendous examples of where that has happened. For instance, what will happen to the women who will have to travel hundreds of miles from Wick for a delivery? They will be separated from their children and their families

The Executive's statistics show that there has been a haemorrhage of beds. The answer to one of my parliamentary questions showed that the loss of beds is running at 20 per cent across the board and more in individual specialties. Funnily enough, in a scary coincidence health boards seem to have managed to co-ordinate bed cuts in the past five years, whereas their current centralisation plans fail to co-ordinate reviews and strategies across boundaries.

Helen Eadie: Will the member give way?

Carolyn Leckie: Sorry, I do not have enough time. I might give way later.

I got an answer to my question on beds, but when I asked how many staffed day-care and day-surgery beds there have been in each NHS board area since 1998—given the argument that the beds have been replaced by other services in the community—I was told that Audit Scotland could not provide that information and the Executive's answer was:

"The specific information requested is not available centrally."

I am sorry, but that is not good enough. The Executive needs to prove its claim that community services have replaced acute or medical beds.

It is revealing that the Tories cite Labour members of Parliament such as John Reid in support of their motion. The Labour MPs who voted for foundation hospitals in England share the increasing-privatisation vision of the Tories. That is why they are cited as soul mates. It is absolutely unacceptable that Labour MPs can summon our health minister to Westminster to question him about health when we cannot summon David Blunkett here to question him about immigration and asylum.

The calls from within and outside Labour for Malcolm Chisholm's head are being made by those who pretend to be the friends of the campaigners but whose agenda is to dismantle the NHS so that it can be taken over using a private insurance model. That is the game. I look forward to the day when we can summon Blunkett here. We need to debate the future of the NHS.

The agenda of the people I mentioned is, as I am sure they will admit, the private insurance model; my agenda is a public model that drives out the private profit motive from the NHS so that we have a service that meets the needs of everyone. That is the debate that we should have. We should not try to disguise the issue in any other way.

I move amendment S2M-1784.1, to leave out from "is opposed" to end and insert:

"notes the succession of profound concerns expressed in debates and motions on the NHS; further notes that these concerns are so serious that calls for a moratorium on NHS closures and centralisations have been made for over a year; notes that communities remain at odds with NHS boards and the Scottish Executive over the future of the NHS, that NHS boards implement Executive policy and budgets, notably the expensive PFI/PPP model of funding for capital projects and have no control of pharmaceutical profits, which represent a massive strain on their budgets, that the application of the working time regulations has neither been planned properly nor budgeted for, that new contracts for medical staff at all levels have not been fully funded and that numbers of graduates in all health professions have been, and are, consistently insufficient to meet the needs of patients or a 21st century NHS; believes that NHS boards should be democratically accountable for their responsibilities but that it is the Executive that sets the structural, strategic, financial and political context that they operate in and regrets the failure of the Executive to acknowledge that responsibility in relation to NHS reorganisation or engage in a debate with the public; further believes that the threat of closure of so many important facilities is entrenching the disengagement between communities and government; believes, therefore, that all reorganisation plans in the NHS should be revisited in a national context so that a wide-ranging and meaningful debate about the security and future of the NHS can take place in Scotland, involving all trade unions and professional organisations who represent NHS workers, community organisations, voluntary organisations, the public at large and academics whilst ensuring that resources and strategies are put in place to protect local services until such a debate has taken place and a national strategy is developed that has the confidence of the Scottish people, and sends its support and solidarity to all campaigners attending the demonstration called by the Scottish Health Campaigns Network in Glasgow this Saturday."

10:06

Mike Rumbles (West Aberdeenshire and Kincardine) (LD): There is no question but that a serious situation exists across Scotland as health boards engage in the process of reorganising the delivery of our health services. There has been a huge public outcry, as people have seen their local health services being threatened with closure or amalgamation. Our health boards seem to take decisions on their own without the meaningful co-operation with neighbouring boards that has been demanded and without any national strategy. That is why the Scottish Liberal Democrats welcome the move that the Executive has made in setting up the expert advisory group that is headed by Professor Kerr to develop such a strategy. We

also welcome the work that is being done by the Health Committee, which should be in a position to report to the Parliament by the end of the year.

I welcome the fact that today's motion is on important health issues, but I must say that the Conservatives seem to have completely missed the point. Their health spokesperson David Davidson has consistently criticised the health service for centralisation. He has criticised Malcolm Chisholm for taking decisions on the health service from the centre. No. The problem has been that the health boards, which were set up under the Tories, have taken decisions without the benefit of a national strategy. It is clear that the boards are less than accountable to the people whom they are supposed to serve and, despite being required to do so by the Minister for Health and Community Care, they are not properly consulting one another.

David McLetchie: Will the member tell us which Government appointed the chairs and most of the current members of the health boards?

Mike Rumbles: I thank David McLetchie for that intervention, but he knows that the Tories set up the whole process. Not only has the minister instructed health boards to work together, but the Parliament has passed a law to require health boards to consult one another.

Let me come back to the point. The worst example of what I am talking about was the building up of services at both the Paisley Royal Alexandra hospital in the Argyll and Clyde NHS Board area and the Southern general hospital in the Greater Glasgow NHS Board area, despite the close proximity of those hospitals to each other.

In addition to boards failing to co-ordinate properly with one another, some boards are taking decisions that threaten the viability of hospitals in our more rural areas, such as by threatening the provision of consultant services at Wick general hospital. I have no doubt that my colleague Jamie Stone will say more about that later.

Rob Gibson (Highlands and Islands) (SNP): Mr Rumbles might have been present at the Health Committee meeting at which I asked the Minister for Health and Community Care about the training of doctors and consultants to do those jobs. Given that his party has been in coalition with the Labour Party for the past five years, what has he done to ensure that we have enough consultants to staff Caithness general hospital? Will he tell us that?

Mike Rumbles: We have record numbers of doctors and health professionals in the national health service in Scotland. The numbers are going in the right direction, so I do not think that that was a particularly useful contribution to the debate.

Malcolm Chisholm has done what no previous health minister has done and set up an expert group to advise on a national strategy, which is exactly the right way to go. The Conservatives have got things completely the wrong way round. We need to ensure that health boards operate locally, within a national delivery framework. That is the solution to the crisis that we should all strive to achieve. The Conservatives' motion completely misses the point. Malcolm Chisholm is taking the action necessary to address the issue and the Conservatives' motion of no confidence in his ability

"to devise and implement a strategy for the NHS which serves the needs of local communities throughout Scotland"

deserves to be defeated.

Today, the Conservatives have been silent about the impact that their plans to divert public money to the private health care sector would have on our national health service. The NHS would certainly not be safe in Conservative hands.

The Scottish Liberal Democrats believe that there has been a breakdown of trust between the public and many health boards across Scotland. Radical change in the health board system will be necessary to deliver both accountability and relevance.

Mr Davidson: Will the member gave way?

Mike Rumbles: I must press on.

Other change is also necessary. Rob Gibson highlighted the problem of the relatively low number of doctors per head of population in Scotland, which needs to be addressed. We have about 2.4 doctors per 1,000 people, whereas the European average is 3.4. Italy has twice the number of doctors per head of population that we have in this country. Addressing that issue will require making better use of our universities. Only half those who train in Scottish medical schools are domiciled in Scotland, but Scotland-domiciled students are twice as likely to work here after graduation. The Executive is addressing such matters, but there is a great deal of work still to do.

On the Executive's amendment, there is no doubt

"that improvement is essential to ensure that all patients have access to both high-quality specialist services and appropriate medical care delivered locally".

The Liberal Democrat position is that, if care can be delivered locally, as well as safely and practically, it should be delivered locally. In our view, the Parliament should welcome the fact that the Minister for Health and Community Care will not make any decisions on new service redesign proposals that are put to him by the health boards—except on clinical safety grounds, which

is right—until the expert advisory group has reported. We should also welcome the work that the Parliament's Health Committee is doing.

Every MSP in the chamber should rally round the Executive's amendment as the best way forward. The health boards cannot proceed on service redesign as though they were in a vacuum. We must have a national health service policy that is based on safety and quality and that ensures that as many services as possible are provided locally. On behalf of the Scottish Liberal Democrats, I urge members to support the Executive's amendment.

10:13

Mary Scanlon (Highlands and Islands) (Con):

On behalf of the Conservative party, I congratulate the campaigners in Glasgow who fought so long and hard to retain services at the Queen mum's hospital on their great victory. Well done to them. I have no doubt that, if the motion were not being debated today, they might still be faced with that uncertainty.

As the minister would not allow me to intervene during his speech, I remind him about the consultation document on services in Caithness. The minister concentrated on clinical safety. I remind him that affordability has very high priority among the criteria. Let him be in no doubt about that.

The debate is about the centralisation of health services, but from our mail we could easily raise concerns about out-of-hours services, ambulance services, NHS 24, hospital-acquired infections, lack of dentists and cuts in chiropody—I could go on for almost all my six minutes. I will quote from two letters on health matters that I received this week from the Highlands. The first is from Nethy Bridge community council, which states that it

"cannot accept the proposals put forward for out of hours care—the plan is ill conceived, inadequate, under-funded and creates a threat to the health and well being of the Highland community—with NHS Highland telling the public that additional funding for out of hours would mean a reduction in cancer care and acute services".

The second is from Latheron, Lybster and Clyth community council, which feels

"that the downgrading of services at Caithness General would be a retrograde step and because of its distance and winter road conditions could lead to deaths of expectant mothers or their babies".

The Belford hospital in Fort William services a huge area, as well as thousands of tourists to the outdoor capital of Scotland each year. People choose to live and work in the area on the basis that health services will be there when they need them. Over recent years, services at the Belford have been built up. People now face the threat

and uncertainty of lesser services, as the Belford integrates with Oban hospital.

Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): First, does Mary Scanlon agree that, if tomorrow the solutions group comes up with something constructive, that proposal should be sent to Wick and NHS Highland for consideration? Secondly, does she agree that Professor Andrew Calder's failure to address the issue of distance with reference to maternity services in Caithness is a disgrace?

Mary Scanlon: It is a disgrace that Professor Calder flew in and out of Wick. He should have had some experience of trying to manoeuvre across the Berridale braes on a rainy, wintry, icy night. Baroness Ray Michie has done an excellent job on the solutions group and I look forward to seeing its findings.

The problem is that changes at Oban affect not only people in that area. Hospital services in Argyll and Clyde are also under threat. The difference between the situation that we face today and the one that led to the petitions that the Health and Community Care Committee considered on Stracathro, Stobhill and so on is that I have never known such clinical involvement. Fergus Ewing and I were present at a meeting in Fort William attended by more than 2,600 people, with hundreds turned away, where consultants, general practitioners, anaesthetists, medical staff, nurses and physios all said that local lives and services were in danger. It was not just the people saying that; it was also the medical staff.

Jamie Stone mentioned Caithness. Professor Calder's report states that management from Inverness has led to "dysfunctional relationships between consultants", poor communications and lack of appraisal and medical audit. That is what happens when there is centralisation of medical services and distant management systems.

When David McLetchie and I visited Caithness, everyone we met raised the issue of maternity services. The trade unions and management at Dounreay, the North Highland College, the Thurso Bowling Club, firemen, community councillors and local councillors were all up in arms about maternity services. As Councillor Bill Fernie said:

"Nothing has united the Caithness community so much as three attempts in just over six years to remove the level of cover at Caithness General."

The standing of the health board is the lowest it has ever been in Caithness.

The problem is that NHS Highland is only carrying out the instructions of the Minister for Health and Community Care and of the Liberals. The Liberals are equal partners in decision making at Cabinet level, so they cannot abrogate their responsibilities on this matter. Charles Kennedy

recently criticised health services in Scotland. I say to him that the Liberals cannot be equal partners in Edinburgh but in opposition in London and the Highlands. Let us have some honesty from the Liberals.

There are further concerns about transporting pregnant women. There is no point in having gold-plated standards in Inverness when women are giving birth in lay-bys down the A9, between Wick and Inverness.

I refer also to the neurology service that the Highlands buy in from Grampian. After 30 years of being built up, the service, which has a nine-month waiting time for routine referrals, will be cut from eight days a month to two days a month.

In Moray, the Spynie and Leanchail hospitals are closing, but the long-awaited purpose-built hospital and health centre is still a distant dream for the local population. As far as the NHS in the Highlands is concerned, it is Lochaber no more, Sutherland no more and Raigmore no more. After the next election, I hope that it is Labour no more.

10:19

Mr Duncan McNeil (Greenock and Inverclyde) (Lab): I will need to watch—my name has been taken in vain so often this morning that it is giving me a complex.

What have we got in the Tories' motion? It says that

"the Parliament is opposed to the centralisation of health services".

So far, so good. I am glad that they agree with me. The motion says that communities across the country are up in arms over hospital reorganisation plans. Again, well spotted—although I wonder how Tories would know. The motion says there is a centralisation agenda in the national health service. I know—I have been trying to tell them that for years.

The Tories recognise the problem—albeit belatedly—but what do they say we should do about it? How do we resolve this emotive, important and complex problem? Sack the minister? Is that it? If the minister goes up in a puff of smoke tomorrow, will the artificial health board boundaries disappear? Will the royal colleges throw away the rule book? Will the European working time directive cease to exist? Will neighbouring health boards leap into each other's arms and start co-operating? I think not. The Tories know it, and I know it.

I do not believe for a minute that the Tories have suddenly converted to the hard-left creed that everything is politics. Somehow, I do not think that the motion was forged by Comrades McLetchie and Davidson at the revolutionary command

council of the Tory party. Rather, I suspect that the motion represents more than a spot of opportunism—cynically playing games with the most serious of issues.

The Tories do not share the genuine concerns of our communities. To them, those concerns are just another political opportunity. What an insult to those communities and to the people in the chamber who have put aside their political differences over a long period, who have shared platforms and who have made common cause against centralisation and its impact on communities.

Mr Bruce McFee (West of Scotland) (SNP): Will the member take an intervention?

Mr McNeil: Sorry, Bruce—I have limited time.

In Inverclyde, people of all political persuasions have come together—except the Tories.

Alex Johnstone (North East Scotland) (Con): Will the member take an intervention?

Mr McNeil: No, I will not. Tory members already have too much time for my liking.

There have been a couple of questions from David McLetchie at First Minister's question time and there have been three Tory debates in five years on the issue. That does not give the Tories any credibility at all. However, every cloud has a silver lining and, as others have said, at least we are debating some of the real issues here this morning.

Carolyn Leckie rose—

Mr McNeil: Again as others have said, it is not only in the Parliament that we need a serious debate. We need a serious national debate, one that involves service users and taxpayers and not just bureaucrats and clinicians. The public, the professionals and the politicians are demanding that debate. It must be a national debate because we need to reach consensus on the issue. The voices of our communities must be heard. People must not be dismissed as being too emotional or too thick to understand the issues. They, and we, must be involved in a genuine debate about what care can be delivered locally.

There must be access to emergency services and elective services. Health inequalities must be considered, as must specialised care and care for the elderly and our children. None of those issues was raised by the Tories this morning; the Tories seek to diminish serious issues.

I believe that we have all the ingredients for a truly national debate. The minister has created, beyond any reasonable doubt, a stable environment that will allow David Kerr and his advisory group to inform that debate.

The Parliament's Health Committee is led by Roseanna Cunningham, who will be a key person in the debate in the coming months and years. I do not flatter to deceive; I seriously believe that she can play an important role, along with the members of the Health Committee, in developing the debate and the committee's inquiry into work force planning. The campaign of *The Herald* has been very useful in informing the debate and that campaign has to be built on. We should ask *The Herald* how it could sponsor debates throughout Scotland.

Can we do more? Can the BBC—the public broadcaster—be used to take the debate to the country? Can we have health-in-the-chamber sessions similar to the business-in-the-chamber sessions? We should be able to give this chamber over not just to politicians but to the campaigners and the professionals. At the moment, the debate is taking place outside the chamber rather than inside it.

I believe that we have the opportunity to have a real debate so that the Parliament can, on behalf of our constituents, influence the future of health services in Scotland in the next 30 years. I hate the phrase, but it is time to “raise our game”. We must have the debate and influence the whole process.

10:25

Roseanna Cunningham (Perth) (SNP): For years now, people in Perthshire have been having meetings, marches and postcard campaigns and lobbying Parliament because of the erosion of services at Perth royal infirmary—particularly in maternity provision and paediatrics. When those services go, concerns arise over the knock-on effects on accident and emergency services, and frustration grows about decisions that seem to be made before farcical consultations and about the apparently one-way nature of the so-called specialisation of services in Tayside.

This morning, the minister gave a long list of services to be transferred to the PRI. However, it is years since it was conceded to me that it made sense for a full out-patient satellite dialysis unit, for example, to be set up in Perth, or for Perth to be the base for a mobile unit. That was promised again earlier this year, but we still do not have it. In fact, just this morning, because of what the minister said, we double-checked. Our calls to NHS Tayside to clarify the situation on dialysis were met with the telephone equivalent of a blank stare.

Somehow, amazingly, the withdrawal of services takes far less time than the introduction of any new services. We lose services but still await the arrival of new ones. No statement that the minister

has made in the past few weeks will make any difference to what has already been lost.

I know that such concerns are not restricted to Perth. From every corner of the country, from television, from colleagues, from lobbying of Parliament and from every party, the voice of protest is loud and clear. It can be as loud and clear as Duncan McNeil has just shown us. Some debates are about local hospitals that currently provide a service that administrators regard as outdated or inefficient but which communities regard as absolutely essential. Other hospitals, such as the Queen Mother's and the homoeopathic hospital in Glasgow, provide services that are sought out from far beyond their own immediate geographical areas.

Until now, everyone has been fighting on their own patch, but the common threat and the common aim are now being recognised. Campaigners from all over the country are beginning to come together. Wherever we look in Scotland, there is anger about what is happening in the NHS. The common primary cause of the symptoms of dissatisfaction is a general sense that the public have completely lost ownership and control of the health service. Democratisation of the health service is and should be an important part of this debate and any future debate that we have. The NHS is the great public service. Acknowledgement of that fact is one thing that distinguishes all the other parties from the Tories.

Nobody expects a maternity hospital at the end of every street or an accident and emergency service round every corner; but people expect politicians and administrators to recognise their demands for the sort of health service that they want. However, we have health boards that run consultations that are little more than cosmetic cover for fait-accompli programmes of centralisation—and the minister has finally accepted today that there has been centralisation.

I now want to concentrate on consultation. The current combination of circumstances is doing untold damage to democracy in Scotland, not just to the health service. At election time, politicians complain about the lack of engagement in the political process. However, can there be any surprise at that lack of engagement when—on an issue as important as the shape of the health service—the people speak and the officials and ministers listen, and then the officials and ministers go and do what they were going to do anyway? Consultation after pointless consultation means that the scunner factor is rising—and who can blame people for that?

At one of the many public meetings that I have attended in Perth—and this is after years of so-called consultation—a senior health service official stated:

"It doesn't matter if every household in Perthshire objected to the removal of consultant-led maternity services; it wouldn't make a blind bit of difference."

That was a breathtaking insult to the thousands of people who had participated in what they expected to be a genuine consultation. I could give that official 10 out of 10 for honesty, but what was the point of the exercise that we had gone through during the previous four years?

Given that an NHS official can so openly acknowledge the pointlessness of all that consultation, can we be at all surprised when voters learn the lesson and apply it to the rest of politics? Town halls throughout the country have been packed to the rafters. A member who campaigned on the single issue of hospital services has been returned to the Scottish Parliament. How much more will it take for the Executive and all politicians not just to listen, but to take on board what they hear?

10:30

Janis Hughes (Glasgow Rutherglen) (Lab): During the past few weeks the phrase "rationalisation and centralisation of health services" has dominated the political and news agenda throughout Scotland. Many people throughout the country have legitimate concerns.

Historically, systematic underinvestment—most notably by the Tory party, which has the gall to claim that it has no confidence in the minister—left Scotland with an NHS that was drastically in need of reform. Let us face it, if there had been investment during the Tory years the situation might have been very different now. However, because of the stagnation of those years we have to effect radical change, which is always difficult to accept.

In south Glasgow, the acute services review will lead to the centralisation of in-patient services at the Southern general hospital and the construction of a brand new ambulatory care hospital at the site of the Victoria infirmary. The new facility will treat more than 80 per cent of the cases that are currently dealt with at the Victoria infirmary and will be bigger than the recently built Hairmyres hospital in East Kilbride. During the acute services review I argued against siting the main hospital at the Southern general and favoured a more central site, but I did not argue that we should keep the Victoria infirmary, which was not built for 21st century health care and cannot provide the optimum health provision for my constituents.

Some campaigners argue that we should stop the work that is going on in Glasgow. However, when Glasgow colleagues and I recently met the area medical committee, which comprises clinicians from the primary care and acute sectors

across the city, the clinicians called for an acceleration of the acute services review on the ground of clinical safety. Clinical safety is often a driver for change, but we cannot expect the public to accept the arguments if they are not provided with the information that backs up those arguments. The public often regards the use of the term "clinical safety" by health boards as an excuse to change or close services. I questioned the minister on that point at the most recent Health Committee meeting and I was pleased that he made a commitment to ensure that boards examine the evidence rigorously and provide a clear definition of clinical safety. Clinicians, too, must make a strong case to back up their arguments. As a result of my discussion with the area medical committee, I agree with the clinicians that any further delay to acute services reform in Glasgow would be to the detriment of patients.

Notwithstanding that point, at the outset of the acute services review we missed a real opportunity properly to engage with the public and explain exactly how the proposed changes would improve the delivery of their health services. We should remember that the review involved a record investment in Glasgow's hospitals of £700 million, which should have been warmly welcomed. Unfortunately, Greater Glasgow NHS Board consulted poorly and did not manage to persuade people of the need for and benefits of change. Sadly, those problems have beset other communities throughout Scotland.

We need to look beyond the boundaries of health boards and ensure that there is greater co-ordination throughout the country. We must be confident that hospital provision is of the highest standard, no matter where the patient lives. Often that means that people will have to travel a bit further for that provision. I have criticised the fact that regional planning has often been ignored when decisions about health services have been taken and I agree with the First Minister that we need to consider the number of health boards in Scotland. Artificial boundaries are often created and I hope that the First Minister and the Minister for Health and Community Care will consider the matter closely.

According to the NHS Confederation in Scotland, the scientific evidence is that the time that it takes to reach a specialist is the more crucial factor in patient survival than the time that it takes to reach a hospital. In small units in which specialists are available out of hours only on an on-call basis, delays in seeing the appropriate consultant can be longer than in larger centres in which specialist staff are available day and night.

I am disappointed that the Conservatives think that they have the right to criticise anyone about health issues. I accept that many people in the

Parliament and throughout Scotland have legitimate concerns about hospital provision, but I cannot accept that many of those people would like the Tories to be in charge of the NHS again. It is rich of the Tories to call for a scalp, instead of telling us how they would modernise the health service.

Mr Davidson: Will the member give way?

Janis Hughes: I am winding up.

The issue is emotive and it is clear that there are no easy answers. Like Duncan McNeil, I welcome the opportunity to have a bigger debate. The Health Committee's work force planning inquiry will help to inform that debate, as will the work of the expert advisory group on the national framework for service change that the minister has established. However, we can be sure of two things: first, the status quo is not an option; and secondly, the Conservative party has nothing to offer the people of Scotland.

10:36

Eleanor Scott (Highlands and Islands) (Green): I am happy to speak in the debate. The Green group will support the amendment in the name of Shona Robison. We support a moratorium on hospital closure, not because we think that change is not necessary—we acknowledge that change will be necessary—but because there is no clear vision of the end point of the proposed changes.

There has been a lack of meaningful dialogue between communities that will be affected by the changes, health boards and ministers, and there is no shared understanding about what local health services should look like. The lack of a shared vision has led to uncertainty and insecurity among NHS staff and the people who use the service. Consultation is not the same as dialogue and, as Roseanna Cunningham said, people might have had unrealistically raised expectations of the extent to which their views were likely to influence decision making.

In other parliamentary debates on health I have talked about the effect on staff morale of repeated changes in the NHS. During the past two decades we have witnessed the establishment of trusts and the purchaser-provider split, the reversal of that system and the abolition of trusts. People cannot see where those repeated changes are leading and staff do not know what their jobs will look like in 10 years' time. The effect on staff morale has an impact on recruitment and retention in the service and should not be underestimated.

The drivers for change in the NHS are not always about patient care or safety. The British Medical Association briefing document that

members received in advance of the debate mentions moves to a patient-centred health service. I am still a member of the BMA—I should have declared an interest when I started speaking.

The BMA primarily represents doctors—it is reasonable that it should do so, as it is the trade union for doctors. However, the drivers for change often reflect the impact of cases that receive a high profile in the media and in which patient care appears to have fallen far short of what is acceptable. The professional bodies' reaction to such cases is to want clearly to be seen to drive up standards. For example, stringent revalidation and retraining requirements for doctors have been imposed in relation to continuing professional development and the standards of evidence that doctors must supply to demonstrate that they are maintaining their professional expertise. The requirements are particularly onerous for doctors who work part time, who are predominantly women. Such drivers for change can raise standards, but sometimes they have the opposite effect. In an increasingly risk-averse and litigious society, it is more likely that clinicians will be willing to treat only low-risk patients in specialist units. That does not help patient care.

Results are generally better in specialist units and such units provide the best possible care. Sometimes that is what is needed, but at other times people who are suffering from less complex conditions want and expect care that is good enough and can be delivered nearer to their home. If we were to superimpose on a graph of the benefits of specialist units a graph of the disbenefits of long journeys to access health care, the lines would intersect at different points for different conditions of different severity. Provision should be available corresponding to each of those intersection points, with a range of provision starting with local primary care facilities, passing through smaller district general hospitals and going through to specialist centres.

Not all clinicians want to be specialists. For example, many doctors and surgeons would enjoy the challenge and variety of working in a smaller unit as general surgeons or general physicians. There would, of course, be procedures that they would never attempt, but I am yet to be persuaded that it is no longer possible in the NHS of the 21st century to be a generalist. I think that that is a service for which there is a demand and which would be rewarding, and it would aid recruitment and retention in some areas. However, if people are going to become generalists, they must feel that they have the support of professional bodies, the Scottish Government and the NHS in general, and the support and confidence of the communities that they serve and of society at large. That is a dialogue that we have to have.

Margo MacDonald (Lothians) (Ind): I hesitate to intervene on a professional, and I hear what Eleanor Scott has to say about the possibilities for general surgeons and about the job satisfaction that that would carry, but is she aware of how difficult it is for Edinburgh, which is supposed to be the most attractive place to live in Scotland, to attract generalist surgeons, never mind specialists?

Eleanor Scott: I think that that reflects recruitment generally in the NHS. When I was training in general practice in the north of Scotland in the late 1970s, people could not get a general practitioner job for love nor money. As trainees, we used to have little discussions among ourselves about which of the GP principals in post at the time was likely to retire or, dare I say it, have a heart attack and have to retire. When a vacancy arose, there were multiple applicants, but now there are unfilled GP jobs. The situation has changed entirely over 20 years, and it is not peculiar to rural areas or urban areas or to particular specialties. It is the case across the board. Our NHS is no longer an attractive or rewarding place to work, and I think that that is because people do not always feel valued.

On the subject of not feeling valued, I would like to take issue with the use of the word “downgrading” in connection with some reductions in facilities. In some cases, it is a perfectly fair description, but it is a bit insulting to midwives to talk about downgrading maternity services when referring to a midwife-led unit. Pregnancy and childbirth are natural processes, after all, and I think that midwives can provide the care that the majority of women would prefer, rather than have their condition over-medicalised.

At bottom, people need to feel safe. They need to feel that services are available for them, especially in the most remote and rural parts of our country.

10:43

Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): I am not on my feet this morning to demand Malcolm Chisholm's scalp. I certainly do not want that, but I do want to preserve the consultant-led maternity service in Caithness.

Let us be quite honest here today in addressing the broader issue of change in the NHS. Surely none of us is saying that we cannot change things, otherwise we would be where we were 100 years ago. I shall give an example of where change could happen. My own wife, as members know, was diagnosed with a meningioma some five years ago and was operated on successfully in Aberdeen by David Currie's team. However, if the

suggestion were made that we should have one supercentre of excellence for neurosurgery, that might be music to my ears. Lots of people will not come out and say this clearly, but let us be honest about it. Such a centre of excellence could work, because there would be peer support for our overstretched consultants. When it is something as life and death as neurosurgery—thank God my wife survived—one does not mind travelling that distance. We have to be honest and up front about that.

That said, there are horses for courses, and although certain services could be centralised, other services—maternity services among them, I maintain—cannot be centralised. I have been talking about honesty, but there is a fundamental dishonesty at every stage in the debate surrounding maternity services in the far north. The issue of distance and inclement weather is the awkward fact that will not go away in the cosy medic-led board rooms of Inverness or Edinburgh. Professor Andrew Calder failed to address that issue. He recognised that there was an issue of distance and inclement weather but he failed to suggest any solution. When I pressed him, he said, “That is for NHS Highland to act on.” In my view, that is a cop out that invalidated his entire report. As part of his remit, he was told to address the issue and he did not. Whenever the issue is raised, NHS Highland itself prefers not to comment. It does not like that awkward fact that is staring it in the face.

I have to ask the minister—I am covered by parliamentary privilege so I can say this—what NHS Highland is up to. Why were two Polish consultants hired and then fired days later? The matter is sub judice, I believe, because at least one of the consultants is taking legal action against NHS Highland. It would prove instructive to the minister to keep an eye on that situation. The First Minister and all right-thinking people are saying, “Let’s get the skills we need into this country from other countries.” If we take people in but do not give them the support or induction that they need in their first days and weeks and if we then sack them, that must send out very contradictory messages indeed. I openly question what NHS Highland thinks it is doing. So far, I do not have much confidence.

Rob Gibson: Will Jamie Stone give way?

Mr Stone: I will not give way at this stage.

I turn to the substance of the amendments that are before us today. I am for a moratorium. So is Shona Robison and so is Malcolm Chisholm. I shall just read out what Malcolm Chisholm’s amendment says. It states that, until Professor David Kerr has reported, there will be a

“presumption in the interim ... that services will be

maintained unless there are genuine issues of clinical safety”.

I really have to be up front and push ministers hard on that issue. What is meant here? If clinical safety means medic talking unto medic in a board room in Inverness and making recommendations, that is not good enough for me. There are mums in ambulances travelling more than 100 miles. If the maternity service—with all due respect to Eleanor Scott’s honesty in tackling the issue—is downgraded to being midwife-led, that will mean more mothers travelling that road, which is the longest distance that one can imagine. That is the most acute example of a distance problem in Scotland. I put it to Parliament that that is a unique problem.

Carolyn Leckie: Will Jamie Stone give way?

Mr Stone: I must conclude my remarks.

No matter how many ambulances are on the road and no matter how many air ambulances there are, if the road is blocked, if the ambulances and trains cannot get out and the planes and helicopters cannot fly, what is to be done? Somebody is going to die. It is as simple as that.

I shall be straight with ministers. My vote is up for grabs this morning, and I want reassurance on the issue. Some months ago, Tom McCabe committed himself in print, in the pages of the *John O’Groat Journal and Weekly Advertiser*, to saying that he recognised that distance was an issue. I hope that NHS Highland does not make any proposals to downgrade the service, but if it does I need an absolute reassurance that the issue of distance and weather will be the one thing that will persuade ministers not to support any such move.

10:47

Paul Martin (Glasgow Springburn) (Lab): I will not spend too much time talking about the Tories, but I would like to make passing reference to an adjournment debate that took place on 27 May 1993. That adjournment debate, on the subject of Stobhill hospital, was raised by a close colleague of mine, Michael Martin MP, who asked the then Parliamentary Under-Secretary of State for Scotland, Allan Stewart:

“Does the Minister still maintain that 1,000 beds must be lost in the Greater Glasgow catchment area?”

Allan Stewart replied:

“The figure of 1,000 ... was arrived at through various planning models. It has been discussed ... with many clinicians through the internal consultation process”.—[*Official Report, House of Commons*, 27 May 1993; Vol 225, c 1052.]

Carolyn Leckie: It is interesting that Paul Martin mentions the loss of 1,000 beds during the Tory

years. Is he aware that, since 1998, 2,000 beds have been lost in greater Glasgow, and can he offer an explanation for that?

Paul Martin: I would just like to raise the Stobhill figures. Over the past year, from 2003-2004, 20 beds have been lost at Stobhill, and that has been due to consultation exercises that took place some time ago.

I would like to raise a serious issue. I am not here today to defend Malcolm Chisholm, nor am I here to challenge him in any way. I am here today to hold the Executive to account in respect of one of the issues that affects my constituency and which Johann Lamont raised earlier. We have some of the most appalling health statistics in Scotland. Heart disease in my constituency is 173 per cent above the Scottish average, and the incidence of cancer in Glasgow Springburn is 213 per cent above the Scottish average. That sets out clearly the serious challenges that we face in this Parliament. When we talk about raising our game, those are the issues that we should be challenging.

That brings me to the serious issue that I raise today. We are trying to challenge those statistics, and with an acute site in Glasgow Springburn we have a serious opportunity to do just that. If we move acute services from the Stobhill campus, will we improve those unacceptable statistics? Will the patient experience improve as a result? The devil is in the detail. I have not received any serious information from the various consultants who have made the case for acute services to be moved from Stobhill hospital about how they will improve the patient experience or how they will attack those unacceptable statistics that we face in Glasgow Springburn. That is why I raise concerns about whether the patient experience will be improved if acute services are relocated to Glasgow royal infirmary and about whether Glasgow royal infirmary will be able to deal with that additional capacity.

In an age of creativity, we hear about modernisation and flexible working practices in many public sector areas. When the site to which we propose to relocate acute services is 3 miles away, why can we not consider the Stobhill campus as part of the acute services strategy?

Although I welcome the compromise that the minister has made in regard to the Queen Mother's hospital, with which Pauline McNeill has been involved—I also congratulate the *Evening Times* on its campaign—I ask for a compromise in relation to Stobhill hospital. I ask the minister to consider in his closing remarks the possibility of retaining some acute services at Stobhill hospital in partnership with the new ambulatory care and diagnostic unit that will be developed at a cost of £83 million.

Like Jamie Stone, I have some concerns about the Executive's amendment, but if I receive a commitment from the Executive that it will meet me and other campaigners, and if the minister will at least consider developing a clinically proven strategy that will include Stobhill, that will give me some food for thought.

Like Roseanna Cunningham, I have serious concerns about the way in which consultation exercises have been carried out in the past. They have not been consultation exercises; they have been information processes. We have to modernise the way in which such exercises are carried out. I ask the minister to consider my member's bill, which seeks to give local communities the right of appeal to a sheriff if they feel that a consultation exercise has not been carried out properly.

We continue to face serious challenges in the form of unacceptable health statistics in Glasgow. I ask the minister to ensure that, whatever strategies are adopted, they attack those statistics, and that he considers a clinical strategy that includes the retention of acute services at Stobhill in partnership with the new ambulatory care and diagnostic unit that will be developed.

10:53

Miss Annabel Goldie (West of Scotland) (Con): Today, this Parliament debates an issue that affects everyone in Scotland and which, as the motion in my colleague David Davidson's name states,

"has led to uproar from coast to coast".

Nowhere is public discontent with, anger at and lack of confidence in the insidious centralisation of health services throughout Scotland more apparent than in the West of Scotland, where the public and clinicians are acutely conscious of a fundamental fact to which the Executive seems oblivious: health care provision is useless if the patient cannot reasonably access it.

It is no wonder that the people of Inverclyde are at war with the Scottish Executive in their determination to preserve Inverclyde royal hospital. It is simply impractical to expect people from Gourock, Greenock and Port Glasgow to make their way swiftly and without difficulty to the Royal Alexandra hospital in Paisley. That option is flawed and dangerous and no one knows that better than Ross Finnie and Duncan McNeil. I was disappointed that Duncan McNeil did not take interventions to his speech this morning, if only to test the worth of what he said. His speech would have been much more convincing had he done so.

It is no wonder that the people of Dumbarton, Cardross, Helensburgh, Alexandria, Renton and

Bonhill are up in arms about the threat to the Vale of Leven hospital, the Jeanie Deans unit in Helensburgh and the Dumbarton joint hospital. If requiring the ill and the frail to make their way from Inverclyde to Paisley is challenging, the prospect for the Vale of Leven area is no less daunting. The friends of the Jeanie Deans unit and the Victoria hospital say:

"We feel that Paisley which is two 'local authorities' and a 'river' away (or three trains and a taxi) is too difficult to access regularly from this area for both out-patients and in-patients as well as visiting relatives."

No one knows that better than Jackie Baillie, who described the moves to take services away from the Vale of Leven hospital as indefensible.

It is no wonder that people are manning the barricades in East Dunbartonshire to preserve services at Stobhill, fearful of impossible journeys through the Glasgow rush hour to try to access the Glasgow royal infirmary. Trying to access the Glasgow royal infirmary from Glasgow in the non-rush hour is bad enough.

The proposals for Glasgow affect other constituents in the West of Scotland. A and E facilities at the Glasgow royal infirmary and the Southern general hospital will introduce pressure and clinical congestion in Glasgow. What does that mean for East Dunbartonshire and those parts of Renfrewshire that are accustomed to using the Southern general? What about the senseless proposal to close a showpiece facility in the Glasgow homeopathic hospital?

The proposals have other ramifications. What about the effect on intended centres of excellence? In my home area of Renfrewshire, communities might breathe a sigh of relief that the sword of closure does not hang over the Royal Alexandra hospital in Paisley, but they are deeply worried about the hospital's capacity and its ability to cope with the convoys of the sick and frail from Inverclyde and the Vale of Leven. A facility preserved that cannot cope is just as useless as a facility that is not there at all. With such proposals before us, not just for the West of Scotland but throughout the country, we will be relying on Harry Potter's Nimbus 2000 to get patients to hospitals, and on owls to deliver messages from their loved ones. A cynic would say that there is a concerted effort to make our hospital provision as centralised and inaccessible as possible in the hope that people will be discouraged from using hospitals, and that is reprehensible.

I am clear that, without local health trusts—which were abolished by three parties in this chamber on a previous occasion—health boards are remote bureaucracies charged with the impossible task of delivering the Executive's health care strategy, whatever that is, within a fixed parcel of resource determined by the Executive.

Shona Robison: Can Annabel Goldie explain how on earth the trusts, if they had been retained, would have saved any of the services that are currently under threat? What difference would the trusts' being in place have made when most of them were in place when the decisions were being taken?

Miss Goldie: I can give a simple answer that will strike a chord with people throughout Scotland: there would have been local influence, local management and local awareness of local conditions, without which the boards have become remote and unaccountable.

The mockery of the Executive overseeing this shambles while affecting to be aloof from the turbulence and running behind the skirts of the health boards is disgraceful. For the past seven years, Labour and, since devolution, the Liberal Democrats have run our health services in Scotland—[*Interruption.*] They have done so whatever Mr Rumbles might affect to argue to the contrary. The working time directive and clinical pressures and patient needs have been known about for years, yet the Executive has taken not one radical, strategic step to increase the recruitment of doctors and nurses or to restore local influence to health care provision.

George Lyon: Will the member take an intervention?

The Deputy Presiding Officer (Murray Tosh): The member is in her last minute.

Miss Goldie: Instead, the Executive has abolished health trusts, which—to meet Ms Robison's point—has removed local influence, and has bought a hospital for £37 million that it did not need to buy.

No wonder the public have lost confidence in the Minister for Health and Community Care and the Scottish Executive—that is clear from the deluge of representations from all over Scotland. That public loss of confidence must be translated into a political judgment of loss of confidence if the mess is to be arrested.

10:59

Pauline McNeill (Glasgow Kelvin) (Lab): I hope that I will be forgiven for dwelling on the Minister for Health and Community Care's announcement this morning. It is a good day for the Scottish Parliament and a good day for democracy, because our elected minister has demonstrated that he will say no as well as yes—no to the plans of Greater Glasgow NHS Board to destroy our unique service. More important, it is a good day for children and maternal health services. Like Mary Scanlon, I put on record my gratitude for the hard work that has been done by

Dr Turner, Dr Cameron, Dr Davis, Sue Forsyth, all the midwives and campaigners and, indeed, MSPs in this chamber, in campaigning hard to get our Minister for Health and Community Care to listen.

Mr Stewart Maxwell (West of Scotland) (SNP): On saving the Queen Mother's—which, like Pauline McNeill, I welcome—given that the health board put all its eggs in one basket and said that there was no alternative, should it now resign?

Pauline McNeill: I knew that that question would be asked in the course of the day. For me, what is important is the result. Lessons have to be learned. Clearly, we have a health board that pursued an unpopular decision. The issue is a matter for board members.

We need to understand what was at stake. Scotland has developed a model of child and maternal health services that is respected throughout the world. The Minister for Health and Community Care's decision means that our work will continue to be respected.

Ms White: Does Pauline McNeill agree that we have to know about the site and the plans for the new hospitals, which must be kept close together?

Pauline McNeill: Yes, I agree. It is important that the implications of the announcement are clarified. I ask the minister to confirm that he is, in effect, moving the Queen Mother's hospital to a new building on an adult site, thus maintaining the model of care by keeping the services together and strengthening them. I seek his assurance that the type of child-centred service that we have at the Queen Mother's—in that radiographers and nurses are specialists in the delivery of children's care—will continue under future arrangements.

The motion is about centralisation. David Davidson asks the public and the chamber to believe that the march towards centralisation is a recent policy, but we know that that is not true. Centralisation has occurred since at least the early 1990s. Labour members have argued for some time that centralisation has gone too far. It is important to realise that the debate is complex, not simple—Carolyn Leckie is right to say that. She said that we would not be in this mess if it were not for trusts, pharmaceutical companies, the failure to implement the working time directive and a long list of other matters. However, she dismissed Johann Lamont's point that in a city such as Glasgow we also need to prioritise resources to tackle serious ill health, because preventing ill health is an important aspect of the acute services strategy.

What is the centralisation debate all about? The starting point is that our constituents expect increased life expectancy and have a greater understanding of medicine. Evidence shows that bringing some specialties together can have

benefits. We see that in Glasgow with the establishment of the cancer care centre at the Beatson oncology centre, which will be a world-renowned centre for cancer services when it is completed. We accept that there has to be some centralisation. If David Davidson had let me intervene, I would have challenged him on that point. Perhaps the issue is the language he uses. Some centralisation is important.

Mr Davidson: Will the member give way?

Pauline McNeill: Why should I? He did not let me in.

We are not doing so well in other fields. For example, we could do better in cardiology and in neurology, about which there is an on-going discussion. However, I plead for evidence-based research. We need to be engaged in decisions. Larger clinical teams have been shown to be beneficial, because doctors collaborate and learn techniques from one another, which makes their working lives more manageable and gives us more advances in medical technology. We believe in our clinicians, because they have our best interests at heart but, in health, as serious politicians, we must ensure that we get the balance right. We should not put all our trust in what we hear from the royal colleges; we should ask for evidence on centralisation. The crucial question in this debate is: what is a justifiable level of centralisation and what is not?

Too much trust has been destroyed, as little has been done truly to engage communities in determining what is in their best interests. Services have been whipped away from district hospitals without engaging with the public to explain why that is important. Centralisation has gone too far and, crucially, without accountability. That is a matter for politicians.

Clinical safety is a scary phrase that is used too often. It must be justified. We must be allowed to test what is meant by clinical safety. We want evidence. That is our job as politicians.

It is important that the Executive amendment acknowledges that the public are concerned. The public trust the medical profession. Like us, doctors have a responsibility to engage with the public, to discuss what is in their best interests and to allow them to have a say.

The working time directive came into force in 1988, resulting in screeds of regulations in the NHS, but it was only in August that we finally implemented all the provisions. Members can work out for themselves who is responsible for the failure to implement them.

Like Duncan McNeil and other Labour members, I have raised concerns. I agree with him that if we are serious, we must build a consensus, have

disagreements and work across parties in the best interests of the people of Scotland.

The Deputy Presiding Officer (Trish Godman): It is not going to be possible to call everybody who wishes to speak, but it would be helpful if members would stick to six minutes.

11:06

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): It is important to recognise the NHS as a whole. No one has mentioned the ambulance service. First, I want to mention something that happened as a result of a decision that was taken purely for financial reasons by Highland ambulance service in the summer. It decided to institute the use of single-person crews. If anyone travels up the A9, the A96 or the A92 and they are in a road traffic accident and suffer a spinal injury, or if any of my constituents has a heart attack in their home, and an ambulance arrives with one person, it will be impossible for them, or for people suffering from many other conditions, to receive a proper service. The ambulance service did that without any consultation. NHS Highland did not even know about it. Has the Minister for Health and Community Care intervened? Not entirely, because what happened is still allowed to happen in exceptional circumstances.

This week, I received an anonymous letter from a female ambulance driver, who stated that she is afraid to go to her job, because she is afraid to go out by herself. Of course, many neds know that ambulances are good places to get drugs, yet there are still single-person crews. Will the minister stop it? Answer came there none.

The second issue is the out-of-hours service, on which proposals have been made by NHS Highland. I do not demonise people on health boards, because they have a job to do. In some ways, they do the dirty work of the Labour Party. The original proposal was that not one GP would be based in Badenoch and Strathspey. The area is around the same size as, or bigger than, the whole central belt, yet that is what the board came up with. Fortunately, as a result of two public meetings that I attended and huge work on the part of the local GPs, led by Boyd Peters, who proposed a safe and workable alternative plan, we have persuaded the health board to change the plan and put a GP in Aviemore. However, the small print is key, and I am not sure that the health board can deliver.

The third issue that I want to advance in the short time that I have available today is Belford hospital. On 11 November last year, 2,500 people—more than one in five of the population of Lochaber—turned out on a windy, cold night to

express their complete contempt for the idea that the Belford should be downgraded and should no longer be a consultant-led, 24/7 hospital with accident and emergency, but should become a cottage hospital of some sort. From the presentation at that meeting, it was absolutely clear that that was what was going to happen, but it did not happen, because 2,500 people turned up. Eight days later, I met the Minister for Health and Community Care and I put to him the following argument, which goes to the nub of the debate: the health boards cannot deliver the solutions because they do not have the powers.

George Lyon: Will Mr Ewing take an intervention?

Fergus Ewing: I will take an intervention from the minister if he wants to contradict anything that I am saying.

I suggested to the minister that he should consider a number of things that have to be done so that we have, in the long term, a 24/7, consultant-led hospital in the west Highlands. Those include, first, recognising general surgery as a specialty. It so happens that the Belford hospital has the second-best record in Europe for dealing with trauma. Each year, 1.1 million visitors go through Lochaber, yet it has been considered that the hospital should be downgraded.

George Lyon: Will Mr Ewing take an intervention?

Fergus Ewing: No. Mr Lyon will get his turn later no doubt.

Secondly, there should be more importation of elective surgery. That needs to become a facet of the Scottish health service, so that consultants in the smaller hospitals have a critical mass of operations to carry out.

The real arguments were advanced in a letter from Dr Neil Arnott in response to *The Herald's* excellent campaign. Dr Arnott asks who is running the health service in Scotland: is it the Labour-Liberal Executive, or is it the various royal colleges? He made three points. His first point was that, despite the Executive's white paper promise that it is opposed to centralisation, the royal colleges are driving a centralising agenda. Secondly, he made the point that there are serious potential

"threats of consultant posts not being recognised by national panels."

Who is responsible for that? The answer is the royal colleges. His third point is that the alleged lack of clinical safety through "skill decay" is being used as the reason for closing units. Mr Chisholm's amendment refers to services being maintained

"unless there are genuine issues of clinical safety".

The significant part of that is the word “genuine”.

If the Executive, as it seems to be intent on doing, is just following the line of the royal colleges and applying the rules willy-nilly to teaching hospitals and hospitals such as the Belford or those in Oban and Wick, inevitably we will be unable to find the right solutions for Scotland. Dr Arnott has said that; David Sedgwick—God bless him—has said that; the GPs and consultants from around rural Scotland are saying that. When will the Executive take those points on board?

11:13

Bristow Muldoon (Livingston) (Lab): I agree with much of what members of the various parties have said. We need to have a broader agenda to address the health inequalities in communities throughout Scotland, and I commend much of the work that the Executive has done in that regard. Many good things are happening in the national health service. In my area, there have been welcome developments in primary care services and there is the construction of a new renal unit at St John's hospital, which is welcome and supported. However, the big problem is that the current process of centralisation of many acute hospital services is completely undermining the confidence of people in the NHS and completely undermining all the health policies of the Executive and the Parliament.

I wish to address the motion and two of the amendments. First, the Conservatives' position is opportunistic; they have, wrongly, tried to personalise the issue against the health minister. I could never support that position. Duncan McNeil mentioned that the Conservatives have been missing from many of the local campaigns—certainly, they have been posted missing in action in West Lothian—therefore their position is hypocritical. Many other parties have worked with Labour politicians in raising concerns about health issues in communities throughout Scotland, and I give them credit for that.

There is little in the Executive amendment that I would disagree with. My problem with the Executive's position is not what it is saying in the amendment but the lack of action to save services at St John's hospital in my constituency. I look to the Executive to take action, to intervene and to support the excellent services that were, until recently, being delivered in West Lothian. I agree with everything in the amendment in the name of Shona Robison, as I signed an amendment to that effect a few weeks ago. For me, the important issue in that amendment is the need for health boards to have a full public consultation and to get ministerial approval before they make changes to health services.

I turn to why those issues concern me so seriously. First, the Executive talks in its amendment—and we have talked in previous Labour manifestos—about the need for a patient-centred NHS. That is not what has been happening in West Lothian. There has been a redesign of services driven by bureaucrats and doctors—hence my comment when Eleanor Scott mentioned her membership of the BMA. We need genuinely to engage with the public. Changes are not just happening to services that are clinically unsafe; they are happening to services in West Lothian that are clinically excellent. Many of the surgical services at St John's hospital in Livingston outperformed parallel surgical services in other Lothians hospitals. Clinical safety is not the issue.

On broader issues of safety, St John's hospital is the cleanest hospital in mainland Scotland as far as MRSA infection is concerned. Surely that is a clinical safety issue too. On financial performance, St John's hospital outperformed the two main Edinburgh hospitals. It is clinically excellent; it is clean; it is financially efficient; and it is supported by the community. If it is impossible for us to deliver acute surgical services in a setting such as that, there must be something seriously wrong with the current orthodoxy, which is moving towards greater centralisation of health services.

There is a solution to the problem, which would result in two acute emergency sites in the Lothians: one at the royal infirmary in Edinburgh and one at St John's, with the Western general playing a major role as the Lothians centre for specialist services such as neurosurgery and oncology. I challenge the Executive to put that solution to NHS Lothian and to require it to change its position. I say to my colleagues throughout Scotland, some of whom already face such challenges and some of whom will face them in future, that if we do not change the orthodoxy of centralisation at this point, what is happening at St John's in Livingston will be coming to a hospital near them.

11:18

Ms Sandra White (Glasgow) (SNP): I thank the Conservatives for using their time today to debate one of the greatest issues affecting the Scottish public. However, I take issue with the way in which they have turned it into a resignation matter. The people of Scotland deserve a lot better when it comes to such an important issue. I am sorry that the Conservatives chose to do that, and I will not support their motion.

I turn to the minister's announcement about the Queen Mother's hospital and Yorkhill hospital. Like Pauline McNeill and others who have worked closely with every party to retain that unique hospital service, I thank the minister for listening to

the people. We have been telling people all along that the consultation process was flawed. I am glad that the minister has at last admitted that.

I, too, congratulate the people who came out—rain, hail or shine—and stood in the streets with placards to lobby the health board. A special thank you must go to the *Evening Times* for the hard work that it has done and, I have no doubt, will continue to do.

While I welcome the announcement, there are a couple of questions that I would like to ask the minister. He mentioned that it could be five years before the advisory group comes up with a proper site or before the site can be developed. Five years is a long time, so I ask the minister whether, during that time, the board—or whoever oversees the project—could keep the staff and the public fully informed about what is going on. The problem in the Glasgow area and throughout Scotland—from Inverness and Wick down to Glasgow and the Borders—is that the public have not been informed about what is going on. They have basically been told, “That’s it.”

I ask the minister what exactly is going to happen. Are the Queen mum’s and Yorkhill going to have new hospitals built on the present sites, or are the hospitals to be moved to a brand-new site or a site at the Southern general? What are the minister’s thoughts on that? I and colleagues from all parties have been speaking to the groups who have been working with us. The first question that people ask is whether their local hospital is being retained on the same site or whether it will be moved. We need those answers, if not today then as quickly as possible. I ask the minister to respond to that when he sums up.

I urge members to vote for our amendment, which outlines the proper way forward. Everybody has spoken about the reorganisation and the strategies that are being developed. We need a national strategy; we need to examine what is happening with the reorganisation throughout Scotland. In his amendment, the minister says that “boundaries are irrelevant to patients”.

Jamie Stone and others agree with me that boundaries are very relevant to patients.

Mr McNeil indicated disagreement.

Ms White: If the member reads the minister’s amendment, he will see that it says that “boundaries are irrelevant to patients”.

They are not irrelevant to patients. People do not want to travel many miles to have treatment. In Caithness, Inverness and other areas, people do not want to travel long distances to have babies, which can be dangerous.

I believe that we need a moratorium to ensure that people’s voices are heard properly and that

the health service is seen to work for them. People see the health service as working for the health board and for consultants; they do not see it working for them. We have to be transparent and ensure that the health service works for people. That is one of the big problems.

I turn to the homeopathic hospital in Glasgow. For the sake of less than £400,000, in-patient beds are being lost. At a public meeting, the health board responded to questioning by saying that the hospital was owed £10 million because it does not have a tracking system for monitoring how much money comes in from different health boards. I have received a written reply from the minister that says that there is, in fact, a tracking system. Is that true? Do health boards have tracking systems? If they do not, why not?

Only a moratorium will suffice. It would deal with the reorganisation of health services and it might clarify exactly what the health boards are doing. If different health boards are accessing activities in one hospital, we should know how much money is being paid in, yet in the case of the homeopathic hospital, Greater Glasgow NHS Board does not seem to know. I would like the minister to address that.

11:22

Phil Gallie (South of Scotland) (Con): The minister, in his opening remarks, castigated David Davidson for suggesting that the issue is the centralisation of the health service. I draw the minister’s attention to his amendment, which fully acknowledges the current concerns among the public over centralisation. I challenge the minister on his audacity in suggesting that we are wicked Tories for politicising the health service. Labour politicised the health service to win office in 1997; I remind the minister of the message that was sent out then about there being

“24 hours to save the health service”.

We have not been as irresponsible as that; we have presented a reasonable case today.

Let us look back to 1997, to a health service that had grown, under 18 years of Tory rule, both in the level of financing and in the development of services. It was a national health service that attempted to put patients’ interests and local needs at its heart. It was an NHS that had local facilities of the highest standard, provided by the Conservative Government. It was an NHS that was managed locally in a way that would address many of the concerns that have been expressed today by Duncan McNeil, Jamie Stone, Bristow Muldoon and others.

Mary Scanlon claimed some success for our motion having reversed the minister’s decision,

and she was absolutely right to do so. I also give credit to the Labour MPs, including Robin Cook, who called Mr Chisholm to Westminster to tell him what they thought; he obviously listened to them. Perhaps those MPs drove some sense into the situation, but they have great audacity because they were part of the problem when Labour voted against the local health trusts. Labour got that entirely wrong.

I turn to some of the problems in the area that I come from, Ayr. Paediatric services have been lost and we will lose a place of excellence as the Arrol Park resource centre, which provides for people with learning difficulties, is being taken out of health service control. Under the review of services, the next threat will be to the accident and emergency facilities at Ayr hospital, another excellent NHS facility that was provided by the Tories when they were in Government.

The main issue that I want to address, which has been picked up by other members, is the effect of the working time directive, on which I have heard some hypocritical—I use that word guardedly, Presiding Officer—statements in the chamber today. Back in the 1990s, the Tory Government took considerable criticism from most of the parties that were represented at Westminster for failing to bring about changes to junior doctors' hours. The Tories recognised what the implications would be, yet people were wringing their hands and saying how terrible it was that junior doctors had to work all those hours. Those people took their eyes off the 8-ball, as the Tories recognised. That was one reason why we did not support the social chapter, which the Labour party signed up to immediately after it took over the reins of office. Responsibility lies there, and Labour members should take it upon their shoulders. The working time directive has a major effect on the present situation.

Now, we are all frightened of cutting across European law. There is a threat there, which has to be addressed. The fault lies not with past Administrations but with the current Administrations, with those who have given them support and with those who supported the working time directive. If things are bad now, and if we consider the European Union's past involvement in our health service, I urge all members to take a look at the draft European constitution. We should ensure that we do not make another great mistake, a mistake that virtually every party in the Parliament—except the Conservatives—is now pursuing.

11:27

Carolyn Leckie: The Tories started the debate with a joke, and that last speech was a joke. Their idea is that the answer to the problems of the

working time directive is not to have it. We should remember that the Tories did nothing to plan for having more doctors in the health service. The Tories are telling doctors that they do not want centralisation, in return for which junior doctors would have to work 120 hours a week. What a laugh.

Let us get back to the serious debate. I offer my congratulations to all those who have made considered contributions. We intend to support the amendment in the name of Shona Robison, which is also supported by Jean Turner. I hope that the amendment is agreed to. If it is not, I hope for reciprocal support for our amendment.

I challenge what has been said about our attitude towards ill health and poverty, to which I did in fact refer in my earlier speech. Some people were obviously not listening. I am not in any position to take lectures about challenging ill health and poverty if one simple and inexpensive measure that could be taken to tackle that—the provision of free school meals—is not being supported. What does the Executive offer? A free glass of water. The recent landslides testify to the fact that we are not exactly dry. I urge support for the amendment in my name. I hope that SNP members will support our amendment if their amendment is not agreed to. I appeal to all members to vote for a tight amendment that leaves no room for interpretation.

During my opening speech, I did not get a chance to talk about NHS staff and the agenda for change. I want to expose contradictions in the approaches to medical and non-medical NHS staff. When non-medical NHS staff, such as admin and clerical workers, face losing up to 30 per cent of their pay, it seems a bit rich for consultants to receive 40 per cent pay rises. The Government is in favour of a carrot-and-stick approach when it comes to public sector pay: the consultants get all the carrot and everybody else gets all the stick.

We have to challenge all the vested interests in the health service. An indication that the Executive is prepared to take that on would be its making a commitment, once and for all, to abolish the unequal boys club merit awards—abolish them now. We should take on the vested interests of the BMA and the royal colleges when it comes to split-site working and the rotation of consultants. If consultants were prepared to work and rotate out of Inverness, clinical safety in relation to Wick would not be an issue. There has to be persuasion in that regard and a challenge to the vested interests.

I take issue with Jamie Stone. It is not that I disagree with his analysis of what is happening in Wick, but it is unfortunate that the question of midwife-led care has been rolled up in the question of the whole future of maternity services,

because midwifery care is not inferior care and it is not a downgrading of care. Midwifery care is appropriate and excellent care for the majority of women in pregnancy, labour and after. Sometimes—in the minority of cases—it is appropriate for women to receive care from registrars and sometimes it is appropriate for them to receive care from consultants. The issue is women getting access to appropriate care; it is not about inferior or superior care.

I am glad that Duncan McNeil referred to there being a need for a real debate. That is what I asked for in my amendment; that is what I have been asking for for more than a year. I hope that Duncan McNeil will support our amendment; I hope that he is supporting the Scottish health campaigns network; and I look forward to seeing him at the demonstration on Saturday.

Mr McNeil: Will the member take an intervention?

Carolyn Leckie: No. Duncan McNeil did not take an intervention from me and I am sorry but I do not have an awful lot of time.

Roseanna Cunningham mentioned democracy and accountability. She is absolutely right that health boards are unelected and unaccountable quangos. However, they act within the parameters of policy, strategy and resources that the Executive sets. Let us not pin all the blame on health boards, because, essentially, the responsibility lies with the politicians, the Executive and the Government, which dictate the policy and the resources.

There is no doubt that the pressure that has been applied by campaigners, NHS workers and others across the board has resulted in a shift by the Executive, which I welcome. The Executive would not have shifted if it had not been for all the campaigns on the streets and the common sense and intelligence of people who were prepared to challenge the vested interests and the received wisdom of those who are too arrogant to listen. I welcome that, but the key question is what happens post Kerr and post the Westminster general election. Those issues are not going to go away. Some people might think that it is enough to agree now to a moratorium, which Jack McConnell claimed was a silly idea. It is not enough to suspend hospital closures for six months—or however many months there are before a general election takes place. The Executive needs to be consistent, because we will have long memories about what happens.

11:34

George Lyon (Argyll and Bute) (LD): Today's debate has been about improving patient safety and the public's cry about the need for local

delivery, which is a difficult circle to square. We all know the main drivers for change in the national health service in Scotland, to which many members have alluded: accreditation of consultants by the royal colleges; increased specialisation by surgeons and consultants; and reducing junior doctors' hours from 100-plus a week to a safer level. Clinicians tell us that all those measures are designed to improve patient safety and outcomes—objectives against which I am sure that nobody in the chamber, apart from perhaps Mr Gallie, would argue. However, some clinicians, such as Dr Sedgwick at Fort William hospital, argue that outcomes at specialist hospitals are no better than those that are achieved by him and his colleagues at Fort William and other district hospitals.

Phil Gallie: Will the member take an intervention?

George Lyon: I am sorry, but I have to make progress.

The debate would be helped by there being published statistics on consultant performance, which might let the general public have a real debate about the safety issues involved in being treated at a specialist hospital or at a local district hospital. I say to the minister that that issue needs to be addressed to allow us to have a sensible and rational debate and to take on the royal colleges in the drive towards specialisation and greater accreditation.

Margo MacDonald: George Lyon seems to be echoing something that Carolyn Leckie said most concisely about there not being published data. We do not want a witch hunt of consultants, so we should have the figures published but not the names. If the names were published, that could lead to consultants being judged by the public in the way that judges will be, as we saw in a paper today.

George Lyon: I completely agree with Margo MacDonald on that.

The key question for us all is how health boards are responding to the challenges that lie ahead. Are they responding in the best interests of our constituents? I think that the answer is a resounding no.

However, I want to give an example of health boards getting it right. I suggest that the joint working that the solutions group—chaired by my colleague, Baroness Michie—is doing on behalf of Argyll and Clyde NHS Board and NHS Highland is a shining example to other boards of how to tackle the challenges that lie before the health service in Scotland. The consultants, doctors and, most important of all, the community in Fort William are working together under Baroness Michie's chairmanship to come up with a solution that

means that consultant-led services will continue to be available to patients in the west Highlands. Tomorrow Baroness Michie will make an announcement about the result of the discussions. I am confident that the group will come forward with a proposal that will mean that consultant-led services will still be available in the west Highlands. I hope that all politicians will back the good work that has been done by the community, doctors and consultants in that exercise.

However, Argyll and Clyde NHS Board needs to do what it has done in relation to Oban and Fort William in working with NHS Greater Glasgow on the plans for Inverclyde and the Vale of Leven hospitals. What on earth is the rationale behind the decision to locate consultant-led services at Paisley when the Southern general is only two miles away? It is time for Argyll and Clyde NHS Board to engage with NHS Greater Glasgow and begin discussions on a west-of-Scotland solution to the challenges that confront them both.

I welcome the minister's announcement that no decision will be taken on changes until the expert group reports in March 2005. I hope that that will allow time for proper discussions to take place between Argyll and Clyde and Glasgow to ensure that alternative solutions are considered. I hope that a west-of-Scotland solution to the challenges that the health service there faces is properly worked out and that the interests of patients are taken into account.

The Tories have sought to portray themselves as the defenders of the national health service. Phil Gallie claimed that they had presented a reasonable case, but the reality is far from that; they are interested only in playing politics on this issue, which is important to many of our constituents. There is no greater example of the Tories' cynicism than Tommy Sheridan's revelation about the Tory-Trot talks. Mr McLetchie and Mr Sheridan on the same side—that says it all about the Tories' cynicism and willingness to play politics on the important issue of safety and the need to deliver services locally. Let us not forget that it was the Tories alone who voted at Westminster against the 1 per cent increase in national insurance contributions to increase health spending in Scotland and the rest of the United Kingdom. Let us not forget that it is the Tories who want to rob the NHS budget to fund private operations for the well-off. Their only interest in this debate is to destroy the public's faith in the NHS to allow them to pursue their goal of privatisation of the service. Let us reject the Tories' motion and support the amendment from the Scottish Executive.

11:40

Dr Jean Turner (Strathkelvin and Bearsden)
(Ind): I thank the Conservatives for giving their

time for the debate, and I thank the SNP for allowing me to sum up. I also thank the SNP for taking on board the motion that I lodged, to which Bristow Muldoon lodged an amendment.

Malcolm Chisholm's amendment takes us no further than what campaigners already know—we totally understand what he is saying. We should not underestimate the intelligence of the electorate. I see no point in asking for the head of Malcolm Chisholm—that is just folly. We have had Sam Galbraith, Susan Deacon and now Malcolm Chisholm, but folk forget that it is change in policy that matters. There are patients out there today who need to see some changes being made now. Roseanna Cunningham said that although it is easy to withdraw services, it takes a long time to replace them, if they ever can be replaced.

The other thing that we have to keep in mind when we are thinking about rearranging services is that, if we could wave a magic wand and stop everybody smoking cigarettes and gaining weight today, along with all the illnesses that pertain to those two things, we would save the health service a lot of money.

I would like to defuse the party-political debate. I came here as a voice of the people, and the people would like to see us working together. The debate has been interesting, and I agree with much that has been said by every party. If I had time, I would love to mention all that.

However, the fact is that we are closing hospitals such as Belford and Stobhill, which have done everything correctly. They have passed the test and are centres of excellence for what they do. Their patients acknowledge and accept that. I am pleased that the Executive has listened to clinicians in relation to the Queen Mother's hospital. The Queen Mother's hospital and Yorkhill hospital should not be separate, so I am glad that the Executive has decided not to do that. I hope that it will listen to the clinicians who are looking after patients at the Vale of Leven hospital, which is under threat, and those in the rest of Scotland.

The Executive must think about what it is doing from the point of view of safety.

Mr Stone: Does Jean Turner support me in the argument that I have maintained on the distance issue?

Dr Turner: Of course I do. It is ridiculous to accept that it is safe to leave pregnant mothers miles away from consultant services. I agree totally with Carolyn Leckie that it is not a downgrade for someone to have a midwife. The important thing is to have services that are appropriate. No mother wants to end up in hospital if she can have her baby at home with a midwife or in a cottage hospital.

I worked in the health service for 35 years. For the first 10 years, I worked in hospital and spent eight of those years as a full-time anaesthetist. We used to have lists as long as your arm for surgery to repair mothers who had had their babies in places that were not the most appropriate. They ended up with tears down below and prolapses of the urethra, rectum and uterus. I hope that we are not going to go back in time, but that we are going to think about what we are doing.

We must think about poverty, which has been mentioned, and the illnesses that exist because of it. We need capacity: why on earth would we shrink our health service? I cannot believe that we would do that when we have about a million diabetics in the UK who still need to be treated.

Helen Eadie: We have had 10,000 new clinicians in the health service in the past 10 years. Does Jean Turner agree that that represents good progress compared to what happened when the Conservatives were in power, when we had 19,000 new managers in post and 25,000 fewer nurses in post?

Dr Turner: Helen Eadie is going down a road that I did not want to go down. I was in the health service for 35 years and have seen all the Governments in that time—none of them got it right. We are where we are today because people have got it wrong. We are in this building to work together to get it right. It looks as though we might have got it right with the Queen Mother's hospital.

I have not mentioned everybody I intended to mention in summing up because I am so passionate about the subject. I would like to see a health service that is local to the people and that the people can support. I will finish with a quotation from "Keeping the NHS Local – A New Direction of Travel", a Department of Health publication that calls for

"a health service that local people can support and feel confident in."

People have lost their trust in the NHS. I would like Duncan McNeil and members of all the other parties to join me in a solutions group, in which every solution would be complementary to the others.

While we are waiting for things to change, we are losing essential services in Glasgow and other places. Malcolm Chisholm said that he would not go back to the acute services review, but unsafe decisions are being made by health boards. I would like him to listen carefully and to meet me again to see whether we can avoid the dangers and unsafe practices that are taking place. It is wrong to have a whole unit shifted without increasing the number of high-dependency beds—that is unsafe. There are other ways of looking at the safety measure that he is talking about: one should not hide behind it.

11:47

The Deputy Minister for Health and Community Care (Mr Tom McCabe): We know that the national health service remains the most important public service for the people of Scotland. Today's debate tells us that the politicians in this chamber are acutely aware of that. We also know that the public understand that the health service must evolve and develop as medicine advances and as public needs change. That is exactly what the service has done successfully since 1947; it has managed that even during times of challenge and underinvestment, such as the 18 years of tortuous Tory rule. The Tories do not like to hear it, but the health service remembers their time in office. The health service remembers those years and the same public who express legitimate concerns today remember them, too. They will not be fooled by the crocodile tears that are being cried by the Conservatives this morning, and the Executive will not tire of reminding the public that the Conservative agenda is the same now as it was then: to starve the NHS of cash, demoralise its staff and wax lyrical about the benefits of private health care.

David McLetchie: Will the minister give way?

Mr McCabe: No.

The coalition Executive is determined to tread a different path—one that invests unprecedented amounts of money and sees unprecedented success in the fight against killer conditions. The ambition that the coalition Executive has for a world-class public health service is compatible neither with reluctance to take hard decisions nor with reluctance to make the best use of scarce specialist staff.

Shona Robison: Will the minister give way?

Mr McCabe: Not at the moment.

We know and accept that if we are to make that ambition a reality, patients and the public must be fully engaged with clinicians and politicians in the decision-making process. That process has to produce a modern and responsive service that works to higher standards of clinical care than have existed at any time in the past.

Mr Swinney: Will the minister give way?

Mr McCabe: Not at the moment.

Let no one be in any doubt that we also know and accept that the way patients and the public are engaged in the never-ending dialogue—which must surround an ever-changing service—has to improve radically.

Jamie Stone made a point about the definition of clinical safety. I am happy to say that when we address clinical safety, it will be within a broad definition that includes distance and access to appropriate and modern infrastructure.

Mr Stone: I thank the minister very much for that statement. Will he please make it abundantly clear to Highland NHS Board that that is the modus operandum of the Scottish Executive?

Mr McCabe: I assure the member that we will make clear to all health boards the direction that we expect them to take.

Mr Swinney: Will the minister clarify a point in the Executive's amendment where reference is made to the

"Expert Advisory Group chaired by Professor David Kerr".

If that advisory group comes up with proposals that have been the subject of debate in the chamber today, and which are unacceptable to members and the broader community, will ministers accept them?

Mr McCabe: That expert group's proposals will be the result of intensive dialogue that will have been carried out the length and breadth of Scotland. I therefore expect the proposals to have a body of support that is different from previous proposals.

Paul Martin and Johann Lamont made good points about unmet need; the fact is that the status quo will not address the vast issue of unmet need that exists throughout Scotland.

Paul Martin: I reiterate the point that I made earlier. I welcome the move in respect of the Queen Mother's hospital. However, if I and other representatives can present a clinical case for some form of acute service to be retained at Stobhill in partnership with the ambulatory care and diagnosis project and the Glasgow royal infirmary, will the minister take that case seriously and ensure that we can move forward as he has moved in respect of the Queen Mother's hospital?

Mr McCabe: Where there is a clinical case, we will consider what has to be done to address it and we will meet representatives if that is required.

We have to put some context around the debate. The health service is not in the type of crisis that the Conservatives and the nationalists would like to portray. We must remember the £60 million investment in cancer services, which continue to reduce mortality rates; the £87 million in a new Beatson clinic, which will strengthen our fight against cancer and improve our search for its causes and the £40 million investment in a coronary heart disease and stroke strategy that has resulted in a 14 per cent reduction in deaths by stroke and coronary heart disease in the under-75 age group.

Progress has also been made in the shape of the Golden Jubilee national hospital, which in its first year treated more than 9,000 patients. There is progress in the shape of yesterday's

announcements by the Minister for Finance and Public Services that spending on health in Scotland will pass the £10 billion mark by 2008. That progress will continue with the capital investment in new hospitals that will end the days of treatment in temporary accommodation or treatment in outdated Victorian institutions.

Of course, progress will mean that change must and will happen within our national health service. When that change happens it will be to sustain and improve clinical standards; we must ensure that it improves and does not dilute services to patients and the public.

I urge every member who is determined to see a modern and responsive health service that is delivered as locally as possible to support the amendment in the name of Malcolm Chisholm.

11:54

Mrs Nanette Milne (North East Scotland) (Con): In the almost 40 years during which I have been associated with the health service in Scotland, I have never seen such widespread concern about the service from patients, the public at large, increasingly from medical staff—as Mary Scanlon emphasised—and, indeed, from politicians.

Of course there have been local concerns when decisions have been made to close a community hospital here or a maternity unit there. However, the widespread unease and lack of confidence in the system is new. Even five years ago, at the start of the Parliament, who would have imagined that Jean Turner would be elected on the back of a hospital closure issue? When Jean Turner and I graduated in medicine in 1965, neither of us dreamed that the NHS would ever face such a crisis, especially at a time when the NHS has never been better funded.

Pauline McNeill: Will the member give way?

Mrs Milne: I will not give way; I am concerned about time.

When communities from Caithness to the Western Isles and throughout central Scotland are protesting about centralisation of services, and when those communities have the outspoken support of their local MSPs, many of whom are members of the coalition parties, something is very wrong and the minister has to be held to account for it. That is why our motion is worded as it is.

We have heard many impassioned speeches today—from Mary Scanlon, Carolyn Leckie, Duncan McNeil, Jamie Stone, Roseanna Cunningham, Fergus Ewing and others—all of whom are concerned about and are campaigning against closure of their local hospitals or the

threatened withdrawal of local facilities. The impetus for centralisation is being driven by several factors, including justifiable clinical concern for the safety of patients in departments that are running below establishment and which are finding it difficult to attract consultant, junior and allied professional staff. That is the result of several factors.

Karen Gillon (Clydesdale) (Lab): Will the member take an intervention?

Mrs Milne: No, I am not taking interventions.

The Executive should have foreseen the clouds on the horizon and taken action before the storm that threatens to destroy the very fabric of the NHS in Scotland.

Certainly technology and treatments have advanced to the stage at which it makes sense to concentrate very highly specialist and extremely expensive services in a few specialist units that are staffed by experts in the field. That is the best way—indeed the only way—to get widespread access to transplantation, certain complex forms of neurosurgical or cardiac treatments and the like. However, people ought to be able to access routine surgical, accident and emergency and maternity services speedily, safely and reasonably close to home in acute general hospitals and they should still be able to get their minor surgical procedures or simple general medical care in their communities.

The fear of losing local services is the reason why people turn out in force at public meetings in the hope that they can influence decisions. Roseanna Cunningham made a valid point about such public consultation too often not being acted on—no wonder people are disillusioned. The public clearly does not want a centralised health service; it does not want to see the closure of perfectly good hospitals, many of which were built, modernised or planned under the Conservatives. People do not want to be forced to travel 100 miles from Wick to Inverness in the dead of winter to have their babies. I hope that it will not be long before Caithness hears the sort of good-news boost that the minister has given Glasgow today.

Patients throughout the country, including the north-east, are devastated by the prospect of the closure of in-patient beds at the Glasgow homeopathic hospital, which gives many people their only respite from pain and is a lifeline for many others. In Fort William, consultants are rightly angry that their hospital might be downgraded when they have the capacity and expertise to provide an excellent service to people who live well beyond their boundaries. As Fergus Ewing said, those consultants have second-to-none experience of dealing with trauma.

A head of steam is building up throughout the country. People want the Executive to carry out its

stated aim of providing a health service that is based on local need and which is safe and within easy reach of patients. To achieve what people want, there will have to be some imaginative thinking. Do we need to apply the working time directive so rigorously that enthusiastic trainees are not allowed even to enter their hospitals when off duty to tackle procedures under close supervision, or even to watch their seniors at work? Other European countries do not do that: why should we? What kind of consultants will we produce in the future if they have too little hands-on experience? I dread the day when some of us need expert care.

What about expanding the use of telemedicine and videolinking between local hospitals and centres of expertise? It already happens, so let us expand it. What about incentives for young staff, such as help with housing, flexibility of working hours and more job sharing and child care for those who need it? What about attractive retention packages for senior staff, whose expertise is commonly lost because of early retirement?

Many local solutions for local problems could be found if the service was truly based on local needs and not operating under the diktat of central Government and the targets that it imposes on health boards. That is, of course, where our proposals for patient passports and foundation hospitals come in. NHS foundation hospitals would be run locally by local directors and would have significant operational freedom that would allow them to develop according to local demand. Patients who chose to use them would bring funding with them, which would allow the development of well-run hospitals where they are needed and wanted by patients. That would be a genuine effort to localise services and it would not give unfair advantage to those who are well-off, as Carolyn Leckie and others asserted.

After hearing Tom McCabe's speech, I think that the Executive should perhaps take Robin Cook's advice and examine John Reid's strategy paper, which challenges many of the centralising assumptions that lie behind health policy in Scotland. That might help the Executive to sort out its problems.

Things cannot go on as they are. People have made it clear that they want speedy access to safe health care, with most treatments being available within a reasonable distance from their homes. It is high time that politicians handed over the reins to patients and to professionals who know what is needed. Only in that way will we develop the services that people need and want, restore confidence and secure the future of the NHS in Scotland. I inform the minister that people are waiting and they will not go away.

First Minister's Question Time

12:01

Prime Minister (Meetings)

1. Nicola Sturgeon (Glasgow) (SNP): To ask the First Minister when he will next meet the Prime Minister and what issues will be discussed. (S2F-1097)

The First Minister (Mr Jack McConnell): I have no immediate plans to meet the Prime Minister, but when I next do so I will certainly wish to offer him support for the commission for Africa and the efforts in planning for next year's G8 summit in Scotland, which was highlighted yesterday so well by a certain guest speaker at a certain conference in Brighton.

Nicola Sturgeon: I begin by saying how relieved I am that the campaign to save the Queen mum's hospital has today succeeded. That proves what we can achieve when patients, the public and politicians unite in defence of our health service. Last week, the Minister for Health and Community Care pledged to put on hold further cuts and closures but, this week, emergency surgery at St John's hospital in West Lothian closed. If the First Minister can intervene to keep the Queen mum's open, why has he refused to save emergency surgery at St John's?

The First Minister: As the Minister for Health and Community Care made perfectly clear earlier, ministers can say no as well as yes to proposals from health boards that are properly for the consideration of ministers. I noticed that members of the Opposition on both sides of the chamber made this very point during the debate, which is that what we need in the health service is slightly less interference by politicians and slightly more decision making based on clinical judgments, which is the right way ahead in the eyes of those who work on a day-to-day basis inside the service.

As I said in the chamber last week, the decision that has been made in St John's hospital in West Lothian is of great personal interest to me. That decision has been made on the basis of a clinical judgment, in which the minister would be entirely wrong to intervene, as to do so could threaten clinical safety.

Nicola Sturgeon: Let us get this right: in relation to St John's, the First Minister is saying that a big, bad doctor did it and ran away. I remind him that Greater Glasgow NHS Board was saying for months that the Queen mum's had to close on clinical grounds, and we know that that was not true. So, if it is right—and it is—to save the Queen mum's, why is there no consistency of approach and why is Malcolm Chisholm not lifting a finger to

save services at St John's or at the many other hospitals across Scotland that face service cuts?

The First Minister: That is entirely untrue. As I said two weeks ago, the Minister for Health and Community Care rejected proposals from Argyll and Clyde NHS Board last year because he wanted the board to think again. He can and will do the same thing again. Government is working closely with people in the Highlands, for example, to try to find solutions to difficult, complicated problems and to ensure that rural services remain in as many parts of Scotland so that people receive services in their area, without clinical safety being endangered.

Politicians should make those difficult judgments on the basis of strong advice. There was a clear difference of opinion on the Queen Mother's hospital among clinicians in Glasgow. The Minister for Health and Community Care spent months listening to those opinions and to local people and, ultimately, he made the right decision, not just for Glasgow, but for the rest of Scotland. I accept that Miss Sturgeon welcomes that decision and I hope that other members will welcome it. The decision is the right one and it will secure a strong future, not just for the health service and for those who work in it, but for the mothers and children who will use the service in the years to come.

Nicola Sturgeon: Does the First Minister appreciate that the public see a complete lack of consistency in the Minister for Health and Community Care's approach? The Executive's health policy is a complete and utter shambles. The Executive says first that it cannot halt cuts, then that it might postpone some and now that it will save the Queen Mother's hospital, although it cannot explain why emergency services at St John's hospital have been closed. At 5 o'clock tonight, we will have a chance to call a halt to the piecemeal approach. I have one simple question: in that vote, will the First Minister allow his MSPs to vote with their consciences, for constituents and to save our hospitals?

The First Minister: There might not have been an awful lot of people listening at the SNP conference, but not one Labour or Liberal Democrat MSP has ever said at a conference that they would deliberately break consensus in Scotland just for the sake of a disagreement. However, that happens far too often in the Parliament, on health and other issues. The Labour and Liberal Democrat members will put Scotland first, not party interests, and ensure that their constituents are represented properly.

The Minister for Health and Community Care has laid out the fundamental principles of our approach. The maximum amount of care that can be delivered locally will be delivered locally. Where specialist centres are required, they will have the

most modern up-to-date equipment and the right staffing levels to ensure that they deliver for patients. If health boards should co-operate across boundaries in patients' interests, they will be made to do so. If clinical decisions are made about training and the safety of patients, the Minister for Health and Community Care will back the clinicians, but if there is a difference of opinion, we will ensure that the patients' case comes first, as we did in Glasgow through the decision that was announced this morning. That is a consistent approach; it is not based on raising false disagreements for party-political reasons—which we see in the Parliament, week after week—but on a firm commitment to ensure that we raise our game, put Scotland first and have a health service of which Scotland can be proud.

Nicola Sturgeon: This afternoon, the Parliament has an opportunity to unite to save hospital services. Shona Robison's amendment comes word for word from a motion that was lodged by the Labour back bencher Bristow Muldoon. Will the First Minister allow his MSPs to vote with their consciences to save hospital services throughout Scotland and to act in the interests of Scottish patients and the Scottish public?

The First Minister: This afternoon, we will have a clear choice. We can vote for the Tories' plans to privatise the Scottish health service and ensure that those who have money and can buy their way into the private system get subsidised for doing so. We can vote for the SNP, which does not want any change and would rather people were treated in old hospitals with old equipment, by staff who are not in the right place at the right time and in a system in which patients do not come first. Alternatively, we can vote for a policy that involves a national strategy that ensures that the right decisions are made one at a time throughout Scotland and carefully considered by the minister when he has to do so, but which at all times recognises that the world is changing round us and that we can use new technologies to save lives and the new skills of nurses, doctors, consultants and many others to ensure that our health service is far better than it was when that lot—the Conservatives—were in charge.

Cabinet (Meetings)

2. David McLetchie (Edinburgh Pentlands) (Con): To ask the First Minister what issues will be discussed at the next meeting of the Scottish Executive's Cabinet. (S2F-1088)

The First Minister (Mr Jack McConnell): Among other issues that will be discussed, we will be congratulating the Minister for Health and Community Care on his announcement today about the Queen Mother's hospital in Glasgow.

David McLetchie: I am happy to join in those congratulations. It just goes to show that we get results in the Parliament when the Conservatives hold a debate on the subject of the national health service.

Last week, the First Minister said that there were far too many health boards in Scotland and that the artificial health board boundaries caused difficulties between health board areas. Can he explain to us how many boards he envisages there being in future? How big will they be? In what way will his lines on the map be any less artificial than the present ones? Is it not the case that the cuts in local hospital services, which we have been debating in Parliament today, have come about through the progressive centralisation of the NHS under this Government and that having fewer boards, which he advocates, means more cuts, which will simply rub salt into the wounds?

The First Minister: No reduction in the number of health boards is proposed by the Executive, but there is a clear indication that the health boards have to start working together across boundaries to ensure that their decisions take account of the regional dimension, or else we will have to consider that option. There is a clear signal for the health boards that they need to do that.

I want to make absolutely clear, as I did in the chamber last week, that it is not that there are cuts in health service budgets or the level of service that is available across Scotland but that there are changes that are being proposed by the health boards. In some cases, those changes will be the right changes; in others, they will be the wrong ones. Where wrong changes have been made, the Minister for Health and Community Care will change them to ensure that the health boards do the right thing, as we have done today.

Across Scotland, there needs to be change in the health service. Technologies, skills and knowledge are available to us in the 21st century that were not available to us even in the last decade of the 20th century. We have to ensure that we can make best use of that knowledge, those skills and that equipment. We need to ensure that we have the right specialist centres and also that more and more care is provided on a local, decentralised basis. That is what is going on across Scotland. We are ensuring, decision by decision, that we get the right balance within a national strategy.

David McLetchie: The First Minister will have to get it right from one week to the next for the sake of consistency. He tells us today that there are no proposals for a reduction in the number of health boards. However, last week, he said to me:

"I am increasingly coming to the view that there are far too many health boards in Scotland".—[*Official Report*, 23 September 2004; c 10548.]

If he thinks that there are far too many health boards in Scotland, the logic would be that he wants there to be fewer, which would indicate that he is going to reduce the number. Could we perhaps get a little bit more consistency?

It is not only the Conservatives who think that the First Minister has been centralising the NHS in Scotland. Robin Cook has praised John Reid's paper, "Keeping the NHS Local—A New Direction of Travel", saying that it

"challenges many of the centralising assumptions behind health policy in Scotland"

and adding that

"the whole point of devolution was to keep decisions local."

However, that is not the First Minister's policy. When will he realise that his policy, as he outlined it this week and last week, is going further and further in the wrong direction and that we need a health service that is far more responsive to the needs of local communities than one that is delivered by the boards appointed by the Minister for Health and Community Care, who abolished the local trusts that were keeping local services going?

Will the First Minister acknowledge that the man who is right about the centralisation of the health service is Robin Cook and that the men who are wrong are the First Minister and the Minister for Health and Community Care?

The First Minister: Not at all. Even if there were a case—as I suggested last week that there might increasingly appear to be—that there are too many health boards in Scotland, the health service in Scotland has suffered from many reorganisations, restructurings and increases in bureaucracy under the Conservatives and it is time to change that approach.

That is precisely why, in the five years for which the Parliament and the coalition Government have been in existence, we have seen a reduction of 15 per cent in the number of administrators and managers in the national health service and a consequent increase, by the same amount, in the number of ambulance staff. I mention that because the Conservatives were equally vocal about the changes that took place in Tayside back in the early days of the Parliament. We heard that there was to be centralisation as a result of changes in the configuration of hospitals there, but today members in all parts of the chamber hold up Tayside as an example of where we all want to be. There is a specialist service in Dundee, but there are also improved local services out in the community and ambulance personnel deliver life-saving treatments on the spot when someone has a heart attack rather than having to carry them into the city. Those are the sorts of changes that are required in a modern health service. Mr McLetchie

must realise that we need not only increases in investment but reform to make sure that our health service delivers for all patients.

David McLetchie: I say to the First Minister that he is the one who wrecked and restructured the health service when he came into power. Does he seriously think that a Caithness health trust running the Caithness general hospital, which was built by a Conservative Government, would order women in Wick to travel 100 miles to Inverness to have their babies? That is what will happen under his proposals.

The First Minister: The Conservatives should look back to May last year. In their manifesto, they said that fewer decisions should be made by politicians and more by clinicians in the NHS, but that is directly contradicted by the Conservative motion and by the point that Mr McLetchie makes. He wants a situation in which everything is run and decided here rather than our taking advice from those at a local level who want services to be improved. We are determined to back them when they are right, but when there is a division of opinion in the recommendations we will choose the right side on behalf of patients. We have done that today in relation to Glasgow and I am sure that we will do so again.

Relative Income Poverty

3. Tommy Sheridan (Glasgow) (SSP): To ask the First Minister how many Scots live in relative income poverty and what percentage of the total population this represents. (S2F-1108)

The First Minister (Mr Jack McConnell): Since 1997, the number of Scots who live in absolute poverty has reduced by 42 per cent and the number of Scots who live with relative low income has reduced by 8 per cent. The most recent figures on poverty were published on 30 March 2004 but they do not take full account of the new tax credit system and further benefit rises.

Tommy Sheridan: As usual, the First Minister avoids the question that I ask. On Monday, he said that his vision was of "one Scotland". Is he embarrassed that, after seven years of new Labour in the UK and five years of the Labour-led Executive in Scotland, 570,000 adults and 320,000 children still live in poverty in a country as rich as ours? Why has the Government failed so many families?

The First Minister: I have said before in the chamber, and I say again today, that there have been significant reductions in child poverty, pensioner poverty and adult poverty in the years of devolved government in Scotland. In that time, 210,000 children have been lifted from absolute poverty, 100,000 children have been lifted from relative income poverty and 170,000 pensioners

have been lifted out of poverty too, but—and this is an important “but” for any elected representative to remember—that is not enough. We must continue our efforts and ensure that we invest in jobs, education, skills, regeneration and the opportunities that help people to come out of poverty and produce a working income for their families. We must not rest on the fact that we have made so much progress so far. We must continue our efforts to ensure that we can abolish child poverty in this country within a generation. We are well on our way to achieving that aim, but there is still an awful lot more to do.

Tommy Sheridan: Is the First Minister aware that, even on the Executive’s own doctored figures, poverty levels in Scotland are four times worse than in Denmark, five times worse than in Finland, seven times worse than in Norway and 10 times worse than in Sweden? If other small nations can reduce poverty and inequality to such radical levels, is it not the case that, until we have national independence with redistributive and socialist policies, the Executive will continue to abandon one in four pensioners, 570,000 adults and one in three kids in what is a deeply divided nation, not “one Scotland”?

The First Minister: If Mr Sheridan’s principled words were in any way reflected in his policies or in his actions, I would welcome them every time that he utters them in the chamber. If his warm words about poverty in Scotland meant anything in terms of the policies that he wants to pursue, they might mean something for those families in Scotland that still require assistance from us.

The truth is that not only would Mr Sheridan go as far as the Scottish nationalists in ensuring that Scotland’s economy was weaker than it is today by ripping Scotland away from our markets and from the jobs that are created through our connections with the rest of the United Kingdom but, worse still, if he had that independent state, he would take the spending on education, health, child care, jobs, regeneration, housing and all the other priorities that we announced yesterday and use it to renationalise companies and do the sort of things that he wants to see because of his ideological and so-called principled position. He is wrong in his analysis. He may be right in his aims, but he is never going to get there.

Spending Review (Tertiary Education)

4. Rhona Brankin (Midlothian) (Lab): To ask the First Minister how the Scottish Executive’s spending review will help further and higher education colleges and universities meet their forthcoming challenges. (S2F-1095)

The First Minister (Mr Jack McConnell): As has been said by those who listened to it, including people from the universities, yesterday’s

budget announcement was outstanding news for Scotland’s higher and further education sectors. Our annual investment in our colleges and universities will exceed £1.6 billion by 2007-08. That record level of investment will help to ensure that we have highly motivated, highly qualified staff who work in sustainable, 21st century buildings where they can develop world-class research and deliver high-quality learning and teaching to students not just from Scotland but from all over the world.

Rhona Brankin: That is indeed the news that the further and higher education sectors have waited for.

As the First Minister will be aware, earlier today in Midlothian the Deputy First Minister launched the Edinburgh science triangle, which brings together universities and research institutes in the Edinburgh city region to create a world-class scientific cluster for Scotland. Does the First Minister share my belief in the importance of science in growing a modern, dynamic Scottish economy?

The First Minister: It is very important for Scotland today that we do not try to compete with those economies elsewhere in the world in which wages and skills are significantly lower than they are here. We need to compete in the modern world on the basis of our talents, knowledge, ideas, innovations and, yes, our university and company research. Today’s announcement by the Deputy First Minister on the Edinburgh science triangle is another step forward towards ensuring not only that we have world-class universities and companies here in Scotland but that they talk to one another and work together to deliver the jobs that will be so important for Scotland’s future.

Devolution (Immigration Powers)

5. Alex Neil (Central Scotland) (SNP): To ask the First Minister what the up-to-date position is on his discussions with the Home Secretary in respect of the devolution of some immigration powers from the UK Government to the Scottish Executive. (S2F-1098)

The First Minister (Mr Jack McConnell): I am in regular discussions with the Home Secretary about ways in which he can support our fresh talent initiative. Indeed, he could not be more helpful in giving us that support.

Alex Neil: Thanks for that unpredictable reply.

In his speech to a fringe meeting on Sunday night in Brighton, the First Minister said:

“There needs to be more flexibility in UK immigration policy to allow Scotland to address its falling and ageing population.”

What additional flexibilities does the First Minister believe are required, especially to increase the

number of work permits and skilled immigrants to Scotland? What progress is he making with the Home Secretary on those two points? When does he hope to be able to announce progress on those matters, either in the papers or in the Parliament?

The First Minister: I will make two points in response to Alex Neil's question. First, I am in discussion about these matters with the Home Secretary. As soon as there are decisions, I will be happy to announce them to Alex Neil personally, in the Parliament or elsewhere. It is important that we use the decisions that have already been made, which give our country, our universities and our companies a competitive edge in the international overseas student market by allocating specific visa provisions to Scotland. There is also scope for us to have an advantage in the work permit system and the other elements of managed migration that can benefit Scotland.

Secondly, it is important that we set the right tone and atmosphere for this debate. It is critically important that we send a signal not just in Scotland, that we want Scots to stay in their own country, or across the world, that we are welcoming of people from other races and cultures who come to Scotland, but inside the UK. The population figures announced this morning show that increasing numbers of people are coming from elsewhere in the UK to Scotland. The attitudes and atmosphere to which I refer will not be helped by a Conservative party that opposes fresh talent coming to Scotland. Mr McLetchie and one or two of his other colleagues who have been more positive about the population issue in the past should be ashamed of the comments that were made last weekend by Peter Duncan. If he is trying to stoke up racial hatred in advance of a general election, he is very wrong indeed.

Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): The First Minister will be aware that NHS Highland recently hired two Polish consultants. They received no induction and days later they were sacked. Does he agree that it is crucial that, when we welcome people to our country, we give them the support and induction that will enable them to start work in the way in which they should?

The First Minister: I am sure that Jamie Stone will understand that I have no wish to comment on individual cases or employers' decisions about the skills, abilities or attitudes of those whom they have employed. However, it is important that when people are here legitimately to work and to contribute to Scotland they should be given full support so that they can do so. That is why next month we will open a relocation advisory service that will give people advice on accommodation, employment, education for their children and all the other things that ensure that people realise

that they can enjoy a great quality of life in Scotland if they choose to stay.

Gaelic

6. John Farquhar Munro (Ross, Skye and Inverness West) (LD): To ask the First Minister how the Scottish Executive will protect and promote the status of Gaelic. (S2F-1096)

The First Minister (Mr Jack McConnell): I congratulate John Farquhar Munro on his campaigning on this subject over many years. I am sure that he and many others in the chamber were pleased when this week we fulfilled our partnership commitment—a commitment by Labour and the Liberal Democrats in the Scottish Parliament—to introduce a Gaelic bill to the Parliament. The Gaelic Language (Scotland) Bill will promote the use of Gaelic and confirm that at long last Gaelic has official recognition in Scotland.

John Farquhar Munro: Like everyone else, I was delighted to witness the significant support for Gaelic language and culture that the introduction to the Parliament this week of the Gaelic Language (Scotland) Bill represents. I am sure that the majority of members will support the bill when it is debated in the Parliament.

Does the First Minister agree that the Government and the Executive should take a lead on Gaelic, so that local authorities and public agencies not only construct Gaelic plans under the terms of the bill but whole-heartedly embrace its spirit and provide a long-term future for Gaelic language and culture?

The First Minister: In passing what I hope will be the Gaelic language (Scotland) act during the coming year, the Parliament will send a strong signal across Scotland that not only do we intend to implement the bill's provisions and expect local authorities and all other tiers of government to support them, but we expect every organisation in Scotland to embrace the idea that our ancient language is not dead and must not die. If we all work together, we can ensure that it not only survives but thrives in the years to come.

Mr Jamie McGrigor (Highlands and Islands) (Con): Does the First Minister agree that the best way to promote Gaelic language and culture is through education and by giving them a higher profile in the media? What will the Executive do to fast track Gaelic teacher training? Will it promote a dedicated Gaelic television channel in Scotland?

The First Minister: Additional resources were allocated in the budget, which was announced yesterday, both for Gaelic-medium education and, for the first time in many years, for Gaelic broadcasting. The minister responsible will announce the details of those soon.

12:30

Meeting suspended until 14:00.

14:00

On resuming—

Question Time

SCOTTISH EXECUTIVE

Enterprise, Lifelong Learning and Transport

Productivity (Ill Health)

1. Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): To ask the Scottish Executive what the impact on productivity was last year of days lost to industry through ill health. (S2O-3459)

The Deputy First Minister and Minister for Enterprise and Lifelong Learning (Mr Jim Wallace): In 2003, the average number of working days lost due to ill health per worker was four, which was the equivalent of 2 per cent of the total number of scheduled working days. Although ill health is undoubtedly important for industry, its effect on productivity is somewhat complex and unclear. Executive policy focuses on the key drivers of productivity as identified in "The Framework for Economic Development in Scotland".

Jeremy Purvis: If the four days lost per employee is extrapolated, using a rule of thumb for the number of economically active employees in Scotland, the figure comes to 8 million days lost to the Scottish economy. That represents a major contributor to our productivity gap. This week's figures from the Federation of Small Businesses show that 93 per cent of Scottish businesses have fewer than 10 employees. Does the minister agree that days lost through ill health have a disproportionate effect on very small businesses, particularly in rural areas? Will he ensure that Scottish Enterprise works closely with national health service boards to ensure that productivity in relation to health is paramount in local economic strategies?

Mr Wallace: I congratulate Jeremy Purvis on his mental arithmetic and rule of thumb: his estimate was 8 million days lost and the data from the labour force survey show that 8.65 million days were lost, so his arithmetic is not bad. The serious point that he makes is that illness has a disproportionate effect on smaller businesses, especially those with fewer than 10 employees. However, as I indicated, the direct implications for productivity are not entirely clear, although, as reflected in "The Framework for Economic Development in Scotland", we recognise that health is an important driver of economic development.

Good health can be a significant boost for productivity, but ill health can mean costs on the economy through lost working time and lost output. That is why it is important that we should consider enterprise and productivity across a range of responsibilities. I take Jeremy Purvis's point. Perhaps community planning and local economic forums are good places for health interests and employment interests to have a dialogue and to stress the importance of a healthy working population for our economic output.

Mr Stewart Maxwell (West of Scotland) (SNP): Bearing in mind the fact that smokers are off work between two and a half and six and a half days more on average than non-smokers, does the minister agree that a ban on smoking in public places—which would result in an immediate drop in the number of smokers and in the smoking rates among those who continue to smoke—would lead to an increase in productivity and efficiency for business because of the resultant reduction in ill health among workers?

Mr Wallace: I congratulate Stewart Maxwell on the way in which he has prosecuted that issue. As he knows, the Executive is consulting on the matter. We are nearing the end of the consultation and the responses will be analysed. Undoubtedly, the point that he makes is one of the factors that could and should be taken into account when decisions are reached.

Murdo Fraser (Mid Scotland and Fife) (Con): The minister will be aware that there is a higher level of sickness absence in the public sector, particularly in local authorities, than in private industry. Is he concerned by that? Will the Executive examine some of the reasons behind it, such as the work ethos among those who work in local authorities?

Mr Wallace: Murdo Fraser is right to point out that absence rates are greater in the public sector in Scotland, but the difference is small and the rates are still relatively low. In 2003, around 3.5 days per worker were lost through illness in the private sector, compared with around 5 days per worker in the public sector. In both cases, absence rates represent about 2 per cent of scheduled working days.

Glasgow Central College of Commerce

2. Alex Neil (Central Scotland) (SNP): To ask the Scottish Executive what action it is taking in respect of the governance of Glasgow Central College of Commerce. (S2O-3407)

The Deputy First Minister and Minister for Enterprise and Lifelong Learning (Mr Jim Wallace): I am encouraged that the Scottish Further Education Funding Council is taking forward with Glasgow Central College of

Commerce's board of management an independent review of procedures at the college. It is vital that colleges have and can demonstrate effective governance and management arrangements in discharging their responsibilities for staff and public funds.

Alex Neil: I thank the minister for his helpful reply. Does he agree that, when an employment tribunal finds against a college board, it is the responsibility of the board, which is in charge of taxpayers' money, to abide by the spirit and the letter of the employment tribunal's decision?

Mr Wallace: It would be inappropriate to comment on the circumstances of individual cases, although, to be fair, Alex Neil did not mention a specific case. In general, I would expect any college that was the subject of an employment tribunal decision to implement that decision in good faith and with the minimum delay.

Dr Sylvia Jackson (Stirling) (Lab): I will follow up Alex Neil's question. The minister knows that the Educational Institute of Scotland is concerned about the issue. As has been said, it is strange that something more positive has not resulted from the tribunal finding. Will the minister suggest a way in which to progress the matter or the bigger issue of the governance of colleges such as Glasgow Central College of Commerce?

Mr Wallace: As I said in my initial response to Alex Neil, the funding council is appointing an independent panel to review the governance and management arrangements at the college. I assure Sylvia Jackson and all members that the council will also review the college's disciplinary processes. The funding council's job is to ensure that colleges meet the highest standards of governance and management, which include having and following appropriate employment and disciplinary procedures. I will follow closely the outcome of the independent review.

Pauline McNeill (Glasgow Kelvin) (Lab): The minister will surely be aware of the concerns among all parties about the failure of a public institution to implement a tribunal decision, as Alex Neil mentioned—I welcome the minister's answer to him. If I assured the minister of the possibility of finding a way forward for the college, which is in my constituency, would he agree to meet me? I assure him that I will take a constructive approach.

Mr Wallace: I am certainly aware of the issue generally and of Pauline McNeill's close interest in it, given her constituency role. I am willing to meet her, because I know from experience that she usually comes to meetings armed with constructive ideas.

The Deputy Presiding Officer (Trish Godman): Question 3 has been withdrawn.

Trans-European Network Funding

4. Alex Fergusson (Galloway and Upper Nithsdale) (Con): To ask the Scottish Executive what representations it has made to the Department for Transport regarding the circumstances in which trans-European network funding would be applied for. (S2O-3476)

The Minister for Transport (Nicol Stephen): The Scottish Executive is in regular contact with the Department for Transport on a range of issues, including trans-European networks.

Alex Fergusson: I am grateful to the minister for his substantive answer. [Laughter.] I am interested that he finds my question amusing, but I thank him for what was a brief reply. In a recent written response to me, he kindly informed me that TEN funding could provide 50 per cent of the cost of studies. I ask him—I am happy even to implore him, if that is what it takes—to consider accessing that funding to undertake an in-depth study of the economic impact of a major upgrade of the A75 from Gretna to Stranraer instead of the welcome but nonetheless unsatisfactory measures that have been announced. Such a study could determine not only the beneficial impacts that such an upgrade would bring to the whole of south-west Scotland, but the benefits that would undoubtedly accrue to the central belt, where I am sure that he agrees the transport infrastructure is creaking at the seams.

Nicol Stephen: I am determined to see improvements to the A77 and the A75. We have a list of schemes that I discussed recently at Cairnryan when all the relevant interests were present. Those schemes have much support and we are determined to press ahead with them. The total funding for them is more than £40 million of Scottish Executive money.

Of course I want to examine other ways of funding projects. That is important for the profile of such international links, which take us from Scotland to Ireland but could take us from the Scandinavian and Baltic countries to the east coast of Scotland, across to the west coast and through to Ireland. The role of TEN funding could be important to that in the future. The maximum funding for the United Kingdom for such projects is 10 per cent but, as the member was right to say, up to 50 per cent funding is available for studies.

I am keen to consider the issue further and to examine ways in which we can raise its profile. In the meantime, there is absolutely nothing to prevent the local enterprise company, the local councils, the ferry companies and other interested parties from doing exactly as Alex Fergusson suggests and starting to prepare a study to emphasise the importance of the route. I see no reason why they would not wish to see that

happen or why they would not wish to support such a study.

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): The minister is aware that the A82 is part of the trans-European network and that it is the main trunk road for the west of Scotland north of Glasgow. He is also aware that part of that road comprises a single track. Traffic is directed on to a single lane by traffic lights that are described as temporary, but that are now entering their fourth decade of good service—the minister is a mere youth in comparison. Does he agree that the stretch between Tarbet and Inverarnan is around four decades overdue for upgrading to normality? From his extensive international experience, part of which he shared with us in his previous answer, can he give one example of any other European nation in which part of the trans-European network comprises a single-track road?

Nicol Stephen: Fergus Ewing's starting premise is inaccurate, as the A82 is not on the list that I have of trans-European network routes in Europe.

Members: Why not?

Nicol Stephen: I presume that Fergus Ewing has suggested that it is on the list to ensure the competency of his question at question time this afternoon.

I have listened carefully to the points that have been made. We are carrying out a major study of the A82 and we intend to introduce more improvements to the route. I recently wrote to Fergus Ewing about the issue. Money is being invested in an improvement programme along the length of the route and there is a significant consultancy study, which is due to report next year. I have no doubt that, following that study, the Executive will put in place recommendations for the long-term improvement of the route.

I also listened carefully to what Alex Salmond said to his conference last week and the issue was certainly not one of the priorities that he or any member of the SNP identified. It rather sticks in the craw when I campaign for the Borders rail link and the upgrading of the A82 but neither campaign appears in the SNP's manifesto proposals.

Airport Rail Links

5. Helen Eadie (Dunfermline East) (Lab): To ask the Scottish Executive what progress has been made on improving rail links to airports. (S2O-3501)

The Minister for Transport (Nicol Stephen): The Scottish Executive is committed to new rail links for Glasgow and Edinburgh airports. Strathclyde Passenger Transport for Glasgow and Transport Initiatives Edinburgh for Edinburgh are

making good progress with preparatory work and both aim to submit bills to the Parliament in spring 2005.

Helen Eadie: I am absolutely delighted that there is Scottish Executive political will and commitment behind the project. In the meantime, the minister may be aware that a bid has been made for a bus route development grant to recommence a bus service from Inverkeithing and the Ferrytoll interchange direct to Edinburgh airport. That service will serve all the railway lines from Aberdeen in the north southwards. Will he give a commitment to support that laudable initiative, which will remove yet more cars from already congested road networks in and out of Edinburgh?

Nicol Stephen: I can give a commitment to support the development of bus services in Scotland. The bus route development fund exists to support and encourage exactly the sort of scheme that Helen Eadie mentions. However, I cannot make an announcement on the fund this afternoon. The bids are in and all parts of Scotland will benefit from the proposals. We are investing significant sums of money to try to kick-start new bus routes or to develop existing routes whose potential is not being fulfilled. That investment will make a big difference for exactly the sort of project that Helen Eadie mentioned.

Mr Kenny MacAskill (Lothians) (SNP): The minister is correct in saying that TIE has done a commendable job to date. However, given the national importance of the issue, should we not set up a strategic organisation, such as a transport agency or some other executive agency, to deal with the matter, rather than leaving it to a company that was set up and is owned and operated by the City of Edinburgh Council?

Nicol Stephen: I agree. Kenny MacAskill is aware that there is broad cross-party support for that view. It seems ridiculous that the Executive can promote and deliver at its own hand major road schemes but not major public transport schemes. I am certain that the Parliament will address that issue sooner rather than later.

In the short term, we need to improve the current private bills procedure on a cross-party basis, but we also need to find an appropriate long-term solution to the issue. In my view, that will very much involve the Parliament as well as the Executive. I hope that we can continue to work on the issue in partnership across the political divide.

Mark Ballard (Lothians) (Green): Further to the minister's initial answer, will he say what consideration has been given to the potential for a much cheaper heavy-rail connection to Edinburgh airport by providing a stop on the existing Fife line

that passes just to the north of the airport, as opposed to the option of a heavy-rail tunnel development underneath the airport at a potential cost of £0.5 billion?

Nicol Stephen: That was one of my first questions on becoming Minister for Transport. Clearly, such a proposal would provide a quicker and cheaper connection to Edinburgh airport. However, the benefits of the current scheme, which was strongly recommended by the professional consultants, were explained to me and have convinced others who have studied the matter. If we can divert the whole east coast main line to provide a connection from the airport station to Glasgow, that will produce a major improvement for the whole Scottish rail network. That is why the current airport rail link proposal is so strongly supported by Strathclyde Passenger Transport and by MSPs from the west of Scotland as well as by those from the east, the north-east and the Highlands of Scotland.

National Concessionary Travel Scheme

6. John Swinburne (Central Scotland) (SSCUP): To ask the Scottish Executive when it will introduce the proposed national concessionary scheme for people who are elderly or disabled. (S2O-3494)

The Minister for Transport (Nicol Stephen): The Executive is determined to deliver its partnership agreement commitment on concessionary travel as soon as possible. Some £96 million has been allocated for 2006-07 and £100 million for 2007-08. That is good news for older people, disabled people and younger people throughout Scotland.

John Swinburne: I am not sure that senior citizens will be happy with the delay. However, will the minister seriously consider the urgent introduction of smart cards for senior citizens in order to bring a halt to the exploitation and abuse of the limited free travel for the elderly and others by some unscrupulous bus operators, which appear to fill their empty buses with phantom passengers?

Nicol Stephen: The short answer is yes. I believe that we need to introduce smart card technology in a way that involves older people and younger people. For example, I believe that the Young Scot scheme could have major benefits for transport. We want to look at all of that, but we do not want to hold back the introduction of free national concessionary travel for older people and disabled people or the partnership agreement commitment to a scheme for younger people. We want to get on with that.

Dennis Canavan (Falkirk West) (Ind): Will the minister clarify yesterday's statement by the

Minister for Finance and Public Services? Will the nationwide concessionary travel scheme mean free travel by bus, rail or ferry anywhere in Scotland for all senior citizens, all young people in full-time education and all people with disabilities?

Nicol Stephen: No, it will not. With respect to elderly and disabled people, the commitment in the partnership agreement is to extend the current local scheme to a national free scheme. The local scheme operates after the peak morning period—which means, I think, after 9 or 9.30 am. As for young people, our commitment in the partnership agreement is to introduce a concessionary—not a free—scheme for those who are in full-time education or training.

Mr Alasdair Morrison (Western Isles) (Lab): The minister will appreciate that pensioners in my constituency who want to benefit from the excellent national concessionary scheme will have to pay full ferry fares on Caledonian MacBrayne ferries. Does he agree that the Scottish Executive should examine the viability of extending the concessionary scheme to those ferries? In the unlikely event that he does not agree with me, I suggest that he quickly establishes the Deputy First Minister's view on the proposal.

Nicol Stephen: As the commitment in the partnership agreement makes clear, the scheme for elderly and disabled people applies only to buses. I should have explained in answer to Dennis Canavan's question that our commitment to the young people's scheme is wider and includes rail and ferry travel.

I quite understand Alasdair Morrison's point about the ability of older and disabled people in the islands to access the free bus scheme. After all, if no element of it acknowledges people's need to cross the water, it will not really extend its benefits beyond those that are available in the local scheme. As a result, I am happy to consider the issue and I undertake to do so before I make any announcement on the national bus scheme.

Justice and Law Officers

Environmental Legislation (Fines)

1. Mr Mark Ruskell (Mid Scotland and Fife) (Green): To ask the Scottish Executive what the maximum fine level is for breaches of environmental legislation. (S2O-3510)

The Minister for Justice (Cathy Jamieson): The maximum fine is unlimited in cases in which proceedings are on indictment.

Mr Ruskell: Does the fact that the likely maximum fine is £20,000 not compare badly with the potentially unlimited fines—and possible custodial sentences, even—for breaches of health

and safety legislation? Does the minister agree that that effectively sends a clear message to business that breaches of environmental legislation are considered unimportant? If so, what does the Executive intend to do to rectify the situation?

Cathy Jamieson: As I have said, the maximum fine is unlimited if proceedings are taken on indictment. I acknowledge that many of these proceedings are taken in the summary courts, where the current maximum fine is £20,000. However, as Mark Ruskell is aware, the Executive intends to double that fine and those orders will be laid in due course.

Police Forces (Funding Formula)

2. Brian Adam (Aberdeen North) (SNP): To ask the Scottish Executive when it will implement a new funding formula for police forces and what the basis will be for any such formula. (S2O-3414)

The Minister for Justice (Cathy Jamieson): The Minister for Finance and Public Services has just announced substantial increases in police funding in his budget. I will announce further details shortly.

Brian Adam: Can I therefore be assured that funding for Grampian police will no longer be 10 or more per cent below the Scottish average and that Grampian will not be at the bottom of the funding list? Will there be a transparent funding formula that we can all judge once the minister has made the appropriate announcement?

Cathy Jamieson: As I have indicated in previous responses in the chamber and in written answers, we must ensure that we have a funding formula that takes into account the whole range of police forces' duties and particular local circumstances such as crime rates and deprivation. My commitment to the chamber is that the proposals in my announcement will certainly be based on those principles.

Richard Baker (North East Scotland) (Lab): The minister will be aware that the extra £2 million funding that Grampian police received as a result of the review process has been widely welcomed. Does she agree that it is essential that the outdated funding formula is revised to ensure that, in future, it takes fair account of the issues that she has mentioned, such as population and crime rates in Grampian, and that it enables Grampian police to tackle particular local problems such as drugs crime?

Cathy Jamieson: I hope that I have already indicated that those points have formed part of the discussions that have been taking place. We should acknowledge that we are trying to ensure that there is a fair approach throughout Scotland. Instead of having MSPs in each area trying to

outdo each other in their demands, we must ensure that the particular local circumstances are taken into account. Those discussions have been taking place with the involvement of the police forces and the chief constables, in particular the Association of Chief Police Officers in Scotland. I believe that, when we bring forward the proposals, they will reflect the best possible solution.

Reliance (Dumfries and Galloway)

3. Dr Elaine Murray (Dumfries) (Lab): To ask the Scottish Executive how it is monitoring the performance of Reliance in escorting prisoners in Dumfries and Galloway. (S2O-3444)

The Minister for Justice (Cathy Jamieson): I expect the Scottish Prison Service to have robust arrangements in place to monitor the performance of Reliance in Dumfries and Galloway and in the other areas where it operates. The SPS will also periodically publish a performance summary on its website.

Dr Murray: I thank the minister for that information. The second phase of the Reliance contract was rolled out to Dumfries and Galloway in July 2004 and so could not be included in the Auditor General's report, which was published this morning. However, I note from the report that Reliance is required to submit a monthly monitoring report to the SPS. How will the freeing up of police and prison officer time, which was the principal objective of contracting out the services, be quantified and reported? At the end of June, Her Majesty's chief inspector of prisons identified the

"unprecedented amount of escort duty"

as one of the challenges that HMP Dumfries had faced in the preceding months.

Cathy Jamieson: Elaine Murray is right to restate the rationale for putting in place the contract. It is important that we ensure that police officer time is freed up. On a recent visit to Dumfries and Galloway, I heard first hand from a police officer about the difference that the contract is making in enabling the police to consider putting more officers on the front line, particularly in some rural communities that have been looking for such support.

It is also important to recognise that on-going monitoring must continue. I have made it clear to the Parliament before and I will make it clear again today that that process is robust. Members might have had the opportunity to read the Auditor General's report, which I believe shows that the arrangements that were put in place for letting the contract were correct and robust—perhaps more so than was the case with some contracts south of the border. I will continue to look at the situation extremely closely. As I have said, at every stage of

the roll-out of the contract, I have to be provided with assurances from the chief executive of the SPS that things are ready to move.

Prisons (Drug Rehabilitation Services)

4. Richard Lochhead (North East Scotland) (SNP): To ask the Scottish Executive what steps have been taken to improve the level of drug rehabilitation services in prisons. (S2O-3440)

The Deputy Minister for Justice (Hugh Henry): The Scottish Prison Service has introduced new ways of working with substance-misusing prisoners and existing interventions have been updated to reflect the shift towards treatment and rehabilitation. The newly introduced services will enhance the work already in place and provide a more supportive and focused environment in which substance misusers can address their offending behaviour.

Richard Lochhead: I am sure that the minister is aware that in many prisons, such as Craiginches prison in Aberdeen, the overwhelming majority of inmates test positive for drug misuse at reception. Often, they have been convicted of committing crimes to feed their drug habit. Therefore, if we want to cut crime in Scotland by up to 80 per cent, particularly in places such as Grampian, the best way to do so would be to break people's drug habits. However, the current level of services in our prisons—particularly in Craiginches—is woefully low. Will the minister give a commitment to pay close attention to the issue and to ensure that we get more resources out of the spending review to apply to the issue so that, for once, we can slash crime rates in Scotland?

Hugh Henry: The SPS takes the issue of drug addiction very seriously. I commend some of the programmes that it has introduced to tackle the problem. I accept many of the points that Richard Lochhead has made on the connection between drug addiction and crime. However, we must recognise both that it is often very difficult to solve the complex problems of those who have drug addiction and that it is difficult to get them off drugs. That is why I am encouraged by some of the innovative work that has been carried out. Some very dedicated staff are developing their skills and expertise, but I recognise that more needs to be done and that additional investment is required. I also accept the point that if we can reduce dependency on drugs we will make a major contribution to reducing crime in Scotland.

Mr David Davidson (North East Scotland) (Con): Further to the minister's comments about improvements in drug rehabilitation services in prisons, can he give us an assurance that the Executive is taking firm steps to make prisons drug-free zones? The risk is that the progress of the people on those programmes is undermined

by the availability of drugs in prisons. Can the minister give us a date by which he thinks that our prisons will be drug free?

Hugh Henry: I hesitate to take such a simplistic approach. In response to a different question some weeks ago, I attempted to look back to find out how successful the Conservative Government had been in making our prisons drug free. I was saddened to find out that it had been unable to ensure that prisons were drug free. That is not to be complacent; we need to ensure that drugs are not allowed into prison. There are very strict enforcement regimes, some of which I have witnessed. I have also seen from some of the videotape evidence people's ingenuity in getting drugs into prison and have heard from the prison authorities the extent to which threats and intimidation are used to try to get people to take drugs into prison. The prison authorities are very vigilant and try to minimise the use of drugs.

Following on from the points that Richard Lochhead made, as well as attempting to stop the flow of drugs into prison, we need to try to wean people off their addiction because even if we make the prisons drug free, if we do not cure prisoners of their addiction, they will return to their old ways when they get back out. We see a significant number of people dying as a result of their use of fairly high levels of purer drugs. We need to factor that into our consideration of what is a complex issue. We need to treat people and to encourage them to reduce the level of, and to overcome, their addiction, but at all times we must be vigilant in stopping the flow of drugs into prisons.

Tommy Sheridan (Glasgow) (SSP): I will pick up the thread of trying to get individuals off their addiction when they leave prison. At last night's meeting of the cross-party group in the Scottish Parliament on drug and alcohol misuse, we heard some disturbing evidence that there are no protocols to ensure that the Scottish Prison Service refers prisoners on to other agencies so that they can get the same kind of help outside prison that they might get inside prison. Can the minister assure the Parliament that there are protocols to ensure that people who leave prison with a drug problem are the subject of referrals and, if there are no such protocols in place, will he give an assurance that there will be soon?

Hugh Henry: Tommy Sheridan mentions an important point that is at the heart of our discussions on trying to reduce reoffending and to ensure that our criminal justice social work services are best placed to help people.

We firmly believe that we cannot tackle the problem by taking separate views of what happens in prison and what happens in the community. Tommy Sheridan is right—there needs to be integration. The planning for the release of a

prisoner needs to start when they are in the prison and that work needs to continue seamlessly and in an integrated way when they return to the community. That is why Cathy Jamieson, as the Minister for Justice, has made clear her determination to oversee changes that will better integrate criminal justice social work services with the work of the Prison Service.

Des McNulty (Clydebank and Milngavie) (Lab): I will take the point further. I have raised with Greater Glasgow NHS Board the delay that has arisen as a result of the new arrangements in people becoming registered for the drug addiction treatment that exists. I am concerned that it might take people who come out of prison with a history of drug addiction four or five weeks to register and qualify for treatment under the new arrangements. I invite the minister to have a discussion with the Minister for Health and Community Care to ensure that that hiatus, which could be fatal to the success of treatment, does not affect released prisoners, which seems to be happening at the moment.

Hugh Henry: Like previous questions, Des McNulty's question suggests that the situation is complex. Frankly, it is inexcusable if people are simply working in their own silos. I believe that throughout the country there is a great deal of good practice that involves people working very well together. Anything that we can do to ensure that there is proper continuity, that people are properly supported and that there is adequate planning needs to be supported, and I will certainly take up the issue that Des McNulty raises.

Law Society of Scotland (Ombudsman's Report)

5. Phil Gallie (South of Scotland) (Con): To ask the Scottish Executive what concerns it has in respect of the statement in the Scottish legal services ombudsman's annual report 2003-04 that, in 42 per cent of full complaint investigations carried out into Law Society of Scotland decisions, the ombudsman recommended that the Law Society should investigate the complaint again or reconsider its decision. (S2O-3396)

The Deputy Minister for Justice (Hugh Henry): I commend the Law Society of Scotland for the recent improvements that it has made to complaint handling, but I agree with the thrust of Phil Gallie's question. It remains a matter of concern that, in a significant proportion of cases, the Scottish legal services ombudsman asks the Law Society to reconsider.

Phil Gallie: I thank the minister both for that answer and for the assistance that he gave me on my question prior to my asking it in the chamber. Is he aware that the maximum value of compensatory payments for the most serious of

inadequate services provided by solicitors lies somewhere between £750 and £1,000? Does he recognise that some of those inadequate services can have an immensely serious effect on individuals, and will he look into what controls there can be over setting the levels of compensatory payments that are available?

Hugh Henry: As required by statute, I have consulted the Law Society of Scotland about the case for increasing compensation levels. I also discussed the matter with the Law Society on 6 September, and I and my colleague Cathy Jamieson intend to introduce orders to increase the levels later this year. I am keen to ensure that any increase should reflect the support of the consultation responses that have been received on the issue by the Justice 1 Committee.

Mr John Swinney (North Tayside) (SNP): I welcome the minister's comments, but I draw to his attention my concerns about the complaint-handling system, which are echoed by the words of the Scottish legal services ombudsman, who said that, in some cases, Law Society-appointed reporters could produce damning findings on the conduct of solicitors, only to have those damning findings overturned by committees of the Law Society itself. That led the ombudsman to say that the Law Society was coming to perverse conclusions in relation to the detail of evidence that was put before it. Will the minister investigate that part of the Scottish legal services ombudsman's annual report, which highlights that matter of great concern, and report back to Parliament in due course?

Hugh Henry: We have reflected carefully on the ombudsman's comments. We need to keep things in perspective and recognise that only an extremely small proportion of all cases handled by solicitors will result in complaints. I commend the Law Society for accepting most of the ombudsman's recommendations to reconsider its decisions or to reinvestigate the complaints in the 42 per cent of cases referred to in Phil Gallie's question.

John Swinney makes a valid point. The Justice 1 Committee has considered a number of matters and recommended that the powers of the ombudsman should be enhanced. We want to build on the recommendations of the Justice 1 Committee, and we shall issue a public consultation paper on our firm proposals for improving the complaint-handling system at the end of this year. The majority of the recommendations that the Justice 1 Committee made to the Executive will require legislation if they are to be implemented, and we are currently considering options for addressing that.

Reliance (Escort of Sex Offenders)

6. Karen Whitefield (Airdrie and Shotts) (Lab): To ask the Scottish Executive how it is addressing concerns expressed over reports that Reliance will be responsible for the prison and court escort of sex offenders. (S2O-3461)

The Minister for Justice (Cathy Jamieson): Reliance has been escorting sex offenders to and from court since April, in accordance with its contractual duties.

Karen Whitefield: Does the minister agree that it is essential that communities feel safe and protected as prisoners are transported between prison and courts, irrespective of their crimes, and that that must be a key priority for Reliance and for all other agencies involved in the process? Does she further agree that there is an important part for prison officers to play in preparing prisoners for release, particularly those who participate in home release schemes?

Cathy Jamieson: I agree with Karen Whitefield's points about public safety and the public having confidence in the system. Of course, it is absolutely vital that public safety is paramount when any escort is carried out with which Reliance, the Scottish Prison Service or the police are involved.

I recognise the point that Karen Whitefield raised about preparations that are made for prisoners—whether sex offenders or other offenders—to return to their local communities. As Hugh Henry outlined earlier, we have undertaken an extensive consultation on trying to reduce reoffending. It is our intention that public safety and confidence in the criminal justice system will be part of any proposals that we make in due course.

General

Sewage Sludge (Metal Content)

1. Phil Gallie (South of Scotland) (Con): To ask the Scottish Executive what procedures are applied when testing for metal content in sewage sludge used for land regeneration. (S2O-3395)

The Minister for Environment and Rural Development (Ross Finnie): Where there are statutory limits applicable to the spreading of sewage sludge, the analysis is to be carried out following strong acid digestion, and its reference method is to be atomic absorption spectrometry. It is the responsibility of the operator to provide data to the Scottish Environment Protection Agency, and the agency carries out audit monitoring.

Phil Gallie: I thank the minister for that very helpful answer. As he is aware, there is an intention to dump 30,000 tonnes of sewage sludge at Beoch, near Dalmellington. He might also be

aware that, after using the testing methods that he described, the copper content of sludge from the site at Irvine was found to be far in excess of the rate that he suggested. Bearing in mind the fact that Beoch sits above tributaries of the River Nith, will he give assurances that testing will be carried out on a regular basis, not only for copper but for bacterial and viral substances?

Ross Finnie: I give the member a positive assurance that the exemption under paragraph 8 of schedule 3 to the Waste Management Licensing Regulations 1994, as amended, is not given lightly and that it is given by SEPA only after it is satisfied that the procedures that are to be carried out by the operator meet its requirements that there should be no harm either to the environment or to human health.

The testing to which the member refers is carried out rigorously. It might be of some comfort to Phil Gallie to know that the operators have submitted their risk assessment to SEPA and the only reason why they have not yet commenced procedures is because SEPA, in carrying out its responsibilities diligently, has sought further information from the undertakers, who will have to supply that before final progress is sanctioned.

Free Eye and Dental Checks

2. Mike Rumbles (West Aberdeenshire and Kincardine) (LD): To ask the Scottish Executive when it expects free eye and dental checks to be implemented. (S2O-3448)

The Deputy Minister for Health and Community Care (Mr Tom McCabe): Through the forthcoming health bill we will legislate to make eye and dental checks free for everyone in Scotland before 2007. We are also discussing with the dental profession in Scotland whether we can make earlier progress by exploring the possibility of providing, under current arrangements, free dental checks for people aged 60 and over.

Mike Rumbles: Does the minister agree that, although the introduction of free eye and dental checks for all is an important first step towards a health service that is based on health promotion and preventive measures, it is just that—a first step? Does he agree that more must be done in the field if we are to achieve the dramatic change in the nation's health that is needed?

Mr McCabe: The Scottish Executive is determined to dry up the tide of ill health that moves towards the health service. Taken together, initiatives such as the provision of free eye and dental checks and our work to try to limit smoking and the abuse of alcohol in Scotland will stem that tide of ill health and will make the space for procedures that most of us can hardly imagine at this time.

Mr David Davidson (North East Scotland) (Con): Does the minister agree that rather than subsidise the well-off, it might be better to apply the resources to young people—not the just the older people he mentioned—as recommended by our optometrists and to put the money towards the provision of more national health service dentists?

Mr McCabe: I fully accept that Mr Davidson knows more about subsidising the well-off than do members on my side of the chamber, but on this occasion I decline his advice.

Elderly People (Hospital Nutrition)

3. John Farquhar Munro (Ross, Skye and Inverness West) (LD): To ask the Scottish Executive what action it will take to ensure that all elderly people in hospital are properly fed. (S2O-3477)

The Deputy Minister for Health and Community Care (Mr Tom McCabe): The quality of hospital nutrition is an important part of an in-patient's overall care. Attractive and nutritious food contributes to recovery. Standards developed by NHS Quality Improvement Scotland set out what the national health service in Scotland must do to ensure that all hospital patients are properly fed. That includes ensuring that enough staff are available on wards at meal times to provide food and fluid to patients and to help patients to eat and drink. NHS performance against the standards will be reviewed and reported.

John Farquhar Munro: I am sure that the minister accepts that a good measure of standards in any society is how we look after those—for example, the very old and the very young—who are unable to look after themselves. Can he assure me—he has done so in good measure already—that he will take appropriate action to ensure that elderly people in Scotland's hospitals and care homes are not malnourished?

Mr McCabe: We have established national nutritional standards that apply in the national health service, and we have established national care standards that apply in our residential and nursing homes. We concur entirely with the view that particularly vulnerable members of our community and those who have served our community well over a long number of years deserve the best standard of care, an important part of which is proper nutrition.

Rob Gibson (Highlands and Islands) (SNP): In light of European Union competition rules, how is the minister ensuring that procurement policies for food in the health service favour home produce—which we hear is the rule in Italy, France and other nations—to ensure the health service provides local people, young and old, with the best nutrition?

Mr McCabe: We have stated publicly on many occasions that we will do all we possibly can to ensure that we have local provision and local procurement of food, not only in our hospitals but in our schools and throughout the public sector. We recognise that that makes an important contribution to the economy of Scotland. We also recognise that the produce that can be procured here in Scotland is of some of the best quality in the world.

Fuel Poverty

4. Donald Gorrie (Central Scotland) (LD): To ask the Scottish Executive whether it will take action to help people in fuel poverty due to rising energy prices. (S20-3449)

The Deputy Minister for Communities (Mrs Mary Mulligan): The Executive will continue to take action to address fuel poverty through programmes such as the central heating programme and work on benefits take-up and employability. We have expressed our concerns about price rises to the energy companies and continue to encourage people to switch suppliers to get the best deals.

Donald Gorrie: That was a helpful response. In relation to the central heating programme, people often complain that those who have partial, inadequate, old and faulty heating systems do not benefit. Will the minister consider including them in the scheme, given the rising fuel prices, which hit them more and more?

Mrs Mulligan: We recognise that when fuel prices are rising, it is most important that people have efficient heating systems that they are able to afford. Therefore, we have taken on board the points that have been raised a number of times in this chamber, and this year we have introduced the upgrading of partial systems for people over 80, in which we have invested an additional £10 million. However, we are reviewing the programme, which is due to complete in 2006, and we will consider other ways of addressing fuel poverty throughout the community.

Christine Grahame (South of Scotland) (SNP): With regard to benefits, no doubt the minister is aware that almost 50 per cent of Scotland's pensioners who are entitled to pensioner credit do not claim it. She will also be aware that the £200 winter fuel payment has not been increased since 2000. Against that background, and given that fuel bills are projected to rise by £60 in the coming year alone, does the minister think that the Scottish Executive's projected figure of 115 for the number of elderly admitted to Scotland's hospitals with hypothermia this year will be exceeded?

Mrs Mulligan: The measures that we are putting in place will ensure that that figure for

hospital admissions does not increase. In fact, the winter fuel payment of £200 has been increased for those over 80, who now receive more than £300. That will make a big difference. I also mentioned in my response to Donald Gorrie our discussions with the fuel companies. Scottish Power's increase in Scotland of 8 per cent this year is lower than the 9 per cent increase in the rest of the country. I suggest that that is a successful result for us, although it is one that I would like to see go further. Christine Grahame is wrong to assert that we are not taking action.

Shiona Baird (North East Scotland) (Green): Given that the Scottish house condition survey's fuel poverty analysis in April attributed 35 per cent of the decrease in fuel poverty to decreased fuel prices, does the minister anticipate a sharp rise in fuel poverty in the near future? How will she remedy that?

Mrs Mulligan: We accept totally that fuel poverty is the result of low income, insufficient heating and ineffective insulation and that a combination of factors will take people out of fuel poverty. That is why we are working with our colleagues at Westminster. We are making a difference and we are taking people out of fuel poverty. We will continue to consider the implications of increased fuel prices and to respond to them. We are determined that, by 2016, we will have taken everyone in Scotland out of fuel poverty.

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): With the additional funding that her department has received in the spending review this week, will the minister ensure that Communities Scotland works with the Environment and Rural Affairs Department and the Enterprise, Transport and Lifelong Learning Department so that new housing developments—particularly for social housing—can utilise combined heat and power and local, renewable sources of energy? Such local sources of energy can be cheaper and better for the environment and will make a major contribution to combating fuel poverty in future.

Mrs Mulligan: Scottish projects have won nearly £11 million so far in the community energy programme, which amounts to almost 39 per cent of the total funding—a bigger share in Scotland than anywhere else in the United Kingdom. I am pleased that Andy Kerr's announcements yesterday will mean that we will invest further in heating and insulation measures. That will ensure that more and more people are taken out of fuel poverty and that, as I have already said, we reach our target of moving everybody out of fuel poverty by 2016.

NHS Boards (Accountability)

5. Alex Neil (Central Scotland) (SNP): To ask the Scottish Executive whether it has any plans to improve the accountability of national health service boards. (S2O-3404)

The Minister for Health and Community Care (Malcolm Chisholm): NHS boards are accountable through ministers to the Parliament. We have strengthened accountability locally by appointing a much broader range of members to NHS boards, including local authority members, and we have legislated in the National Health Service Reform (Scotland) Act 2004 to lay on boards new duties of public involvement and regional co-operation.

Alex Neil: I draw to the minister's attention the example of the succession of a general practitioner at the Rowallan medical practice in Blantyre, where a petition signed by three quarters of the patients was totally ignored by the health board and the area medical committee. Will he now review the rules governing the appointment of GPs and build in a statutory requirement that the views of the patients, while perhaps not being paramount, certainly have to be recognised? They certainly were not in this case.

Malcolm Chisholm: That was a complex situation. The selection panel was run a second time, but I am told that that time, patient representatives were involved. It is true that there is no statutory requirement for patient representation, but it happened in that case. There is the general duty of public involvement, and we all talk regularly about the need to have better public involvement at a very early stage in issues to do with service changes. Alex Neil is talking about a specific case, which I can look into further, but my impression is that, in that case, the patients were represented in the final selection of a new GP.

John Scott (Ayr) (Con): During this morning's debate, the minister made much of the importance of consultation in the formulation of local health policy. Is he aware that the paediatric unit at Ayr hospital is closing, notwithstanding his view, the views of all politicians in South Ayrshire and the views of 16,000 people from South Ayrshire who signed a petition calling for the unit to remain open? Does not that suggest that the minister and health boards are only paying lip service to the value of consultation? How does he intend to address the situation?

Malcolm Chisholm: I am the first person to agree that we need to get better at public involvement, and we are taking a series of actions to ensure that we do so. I have already referred to the 2004 act. Tomorrow, I will be speaking at the annual general meeting of the Scottish Association

of Health Councils. The main topic will of course be the creation of the Scottish health council next April. The health council will be a major new force in ensuring that boards engage far more effectively with their local communities, and we will also issue new guidance.

We require a radical improvement on the traditional methods of end-stage consultation that existed under the Conservative Government. We want boards to engage at the earliest possible stage and to have a continuing dialogue with communities on the challenging issues that we discussed in the debate this morning. I am the first to agree that there is a lot of room for improvement.

St John's Hospital, Livingston

6. Bristow Muldoon (Livingston) (Lab): To ask the Scottish Executive what action it will take to ensure that St John's hospital in Livingston continues to be able to support its accident and emergency department by retaining on-site emergency surgery. (S2O-3499)

The Minister for Health and Community Care (Malcolm Chisholm): I understand that NHS Lothian has recently recruited an additional accident and emergency consultant to the service at St John's and that it is planning to invest £500,000 in an observation ward to support the accident and emergency department. It will continue to be an effective accident and emergency service.

Bristow Muldoon: Would the minister accept that the emergency and general surgical department at St John's hospital had a high degree of clinical excellence in terms of outcomes before it was removed? If he accepts that that was the case, would he agree to submit the decisions taken by NHS Lothian to independent analysis by a respected body, so as to compare the health board's decision with the alternative solution to the training problems that existed, which was proposed by the medical staff committee of St John's hospital?

Malcolm Chisholm: Surgery at St John's certainly has an excellent record. That is why I am pleased that there is to be increased elective surgery there. During this morning's debate, I noticed that the Conservatives were saying that a lot of the challenges faced by local services would not exist under trusts. In reality, for the first time ever, surgeons from the Royal infirmary of Edinburgh, including the regius professor, are going to perform surgery at St John's, thanks to the fact that we have a single system working in the whole of Lothian. Many of the problems with training have been addressed.

The issue that Bristow Muldoon is not happy about is that emergency surgery—which concerns

about four people a day—is not going to be carried out at St John's. However, the service provided is a model of care. During the debate this morning, the document on better local care in England, "Keeping the NHS Local", was discussed. That document—which is so much admired by the MP for Livingston—says that one model that should be considered is the model to which I referred earlier, where there is an accident and emergency department but where emergency surgery is not actually required.

Lord James Douglas-Hamilton (Lothians) (Con): Is the minister prepared to revisit any decisions about the relocation of certain emergency services at St John's hospital in Livingston in the light of the national framework review? Will he accept that the removal of certain accident and emergency services from that hospital is viewed by local communities as a definite retrograde step?

Malcolm Chisholm: I will be receiving the conclusions of the better acute care in Lothian review. Part of the consultation for that relates to emergency surgery. The consultation document contains a proposal to have only one centre for emergency surgery in the whole of Lothian. I will consider the general question of emergency surgery when the document produced as a result of the review comes to me, and I will of course consider the whole issue, including emergency surgery at St John's.

Emergency Workers (Scotland) Bill: Stage 1

The Deputy Presiding Officer (Trish Godman): The next item of business is a debate on motion S2M-1079, in the name of Andy Kerr, on the general principles of the Emergency Workers (Scotland) Bill.

15:00

The Minister for Finance and Public Services (Mr Andy Kerr): As members will be aware, in our partnership agreement, the Executive undertook to "protect emergency workers from assault and obstruction"

as part of our broader strategy for tackling antisocial behaviour and, clearly, our commitment to delivering a safer Scotland.

Emergency workers provide an invaluable service to society. We depend on them to save and protect our health, well-being, possessions and environment and they do so in difficult and often dangerous circumstances.

It is absolutely unacceptable that such dedicated and courageous workers should face the threat of abuse, assault or obstruction when responding to emergency situations. Such assaults endanger the lives of not just emergency workers and those assisting such workers, but those they are trying to help. That cannot be tolerated, which is why the Executive is taking action to ensure that all emergency workers receive the statutory protection that they deserve.

At present only the police have specific statutory protection from assault and obstruction. Firefighters have statutory protection, but only when they are fighting fires. The Emergency Workers (Scotland) Bill will protect all emergency workers from assault, obstruction and hindrance whenever they are responding to an emergency. It will also protect those assisting emergency workers, whether as part of their job or simply as individuals. That means, for instance, that auxiliaries or porters who are helping doctors or nurses while responding to an emergency will also be protected by the bill's provisions.

Tommy Sheridan (Glasgow) (SSP): Is the minister willing to consider whether the nature of the work rather than the incident should provide the statutory cover? If the porter or auxiliary is assaulted in a hospital ward in a non-emergency situation, they will not be covered by the bill. Is there any way that the bill could be more flexible?

Mr Kerr: I will cover that point in more detail later. Common law protects any individual from any assault and the measures that the Lord Advocate has put in place have ensured that those

who are handing down sentences and fines in our courts are doing so much more rigorously. The bill is about ensuring that that specialist set of workers who are responding to emergencies, protecting life and limb or the environment, are protected in a greater way. By providing protection for emergency workers and those assisting them, we are covering a wide range of workers.

Margaret Mitchell (Central Scotland) (Con): Is the main thrust of the bill about protecting emergency workers per se or is it about the consequences of attacks on emergency workers?

Mr Kerr: I am not sure that I follow that point. The intention of the bill is to ensure the protection of emergency workers and those assisting them, including the public—which could mean you or me if we were providing assistance. By increasing the penalties and fines relating to attacks on that specialist set of workers—who are doing something different from other workers in the public sector—we are ensuring that they are properly protected.

On the point that Tommy Sheridan made earlier, to go further would risk diluting the effect of the bill. In effect, we would risk simply replicating the current common law protection from assault, which applies to everyone in all circumstances. Our purpose is much more specific; it is to protect emergency workers in emergency circumstances.

Creating the specific offence of assaulting, obstructing or hindering an emergency worker who is responding to emergency circumstances says that such behaviour is not only antisocial but criminal and will be dealt with appropriately. The bill will enable us to categorise that misconduct more clearly than we can now. It will enable us to label that behaviour and stigmatise the perpetrators accordingly and it will add to the armoury of the police and the prosecution.

As both the Association of Chief Police Officers in Scotland and the Chief and Assistant Chief Fire Officers Association testified, the bill will give emergency workers greater confidence to report any incidents. It will also give emergency workers greater confidence that action will be taken against those whose offensive behaviour plagues their working lives. Surely our emergency workers deserve that confidence.

Of course, there is more to it than that. We believe that by sending out the message that abusive or obstructive behaviour is unacceptable, the bill will have a deterrent effect and will ultimately decrease the number of offences and prosecutions in this area.

The Justice 1 Committee has been scrutinising the bill and I welcome its support for the general principles. I note, however, that the committee has raised several concerns in its comprehensive

report. I am grateful for the work that the committee has done and will give the issues that are raised in its report the full consideration that they deserve.

Although we will return to the detail at stage 2, there are a number of comments that I would like to make at this point. First, I note that the committee recommends changes to the list of workers who are identified in the bill.

Jackie Baillie (Dumbarton) (Lab): On that point, I welcome the inclusion of the Coast Guard and the Royal National Lifeboat Institution in the list of emergency workers. Does the minister agree with the committee that inland rescue boat services such as the Loch Lomond Rescue Boat are also of value?

Mr Kerr: I am well aware of the member's interest and the work that she has been doing in regard to that point in the bill. The Executive is in touch with the Loch Lomond rescue team. The bill contains an order-making power that will enable us to add groups of workers who deal with emergencies to the list. From my examination of the evidence that has been given, and from the points that the member has raised with me, it appears that the Loch Lomond Rescue Boat would be covered by that power. We are, therefore, exploring whether it would be appropriate to include it in the bill. We will look to do that, and our discussions point in that direction.

I have paid close attention to the evidence that has been submitted by and on behalf of social workers—another category of workers that has been talked about during the work of the committee. I have a great deal of respect for the enormously valuable and challenging role that is performed by mental health officers and child protection workers, and I am sympathetic to their case for inclusion in the bill. I am, therefore, happy to accept the committee's recommendation to reconsider the issue at stage 2.

I also note that the committee questions the need for prison officers to be protected by the bill. It is clear, however, that the prison officers' representatives who gave evidence to the committee on the matter did not share that view. It is the Executive's belief that prison officers are the emergency services in our prisons. I therefore remain convinced that prison officers are entitled to the bill's protection.

Margaret Jamieson (Kilmarnock and Loudoun) (Lab): Will the minister give me an assurance that that includes prison officers who are working in the private sector, especially at HMP Kilmarnock?

Mr Kerr: Yes, indeed that is the case. Those workers will be similarly protected by the bill.

The committee's report raises some issues about the definition of emergency circumstances that is used in the bill and notes that those will be considered further at stage 2, when I will be happy to discuss those points. It might be helpful, however, if I comment now on the suggestion that the bill should be revised to refer to "serious health risk." Having looked at this, I am happy to confirm that "serious illness", as currently mentioned in the bill, will encompass serious mental illness as well as serious health risks. We therefore believe that the definition of emergency circumstances as it stands already satisfies that point. Nevertheless, I am more than happy to listen to the committee's views on the matter when we consider the bill at stage 2.

I sympathise with the concern that was raised with the committee that the bill should apply to all parts of hospitals where emergencies may occur, not just to accident and emergency departments. However, let me make it quite clear that any medical practitioners or nurses and any staff who are assisting them in responding to emergency circumstances anywhere in a hospital or elsewhere are already protected by the provisions of section 1. There was some suggestion in the evidence that was heard by the committee that amendments would need to be made to section 3 to achieve that aim, but that is not the case. Section 3 already applies to any part of a hospital that

"is used wholly or mainly for ... the reception and treatment of persons needing medical attention as a result of an accident or otherwise as a matter of emergency."

That clearly applies more widely than just to accident and emergency departments, and I believe that it addresses the concerns of members and those who gave evidence to the committee.

Margaret Mitchell: Will the minister give way?

Mr Kerr: I will make some progress and try to come back to that point. I have a fair bit still to cover.

The committee has also identified a number of issues surrounding the evidential requirements of the bill. I share the committee's desire for clarity in what is a complex area of law. The same issues were raised by the Law Society of Scotland in a letter that was sent yesterday to all MSPs. I accept that there might be ways in which the bill can be amended to clarify the evidential requirements that will need to be satisfied. Officials will meet the Law Society of Scotland to explore the points that it has raised, and I am confident that those discussions will help us to resolve the difficulties. I will ensure that the committee is kept fully informed of progress on the issue in advance of stage 2.

Finally, I note the committee's recommendation that the order-making power to modify the

categories of worker that are covered by the bill's protection should be subject to affirmative resolution. I am happy to agree that point, and the Executive will lodge an amendment to that effect at stage 2.

Legislation alone will not solve the problem. That is why the bill is just one crucial part of a range of actions the Executive is taking. I therefore welcome the committee's full support for our wider package of non-legislative measures to tackle the problem of verbal and physical abuse of any worker who serves the public. That programme of actions is set out in a document entitled "When the customer isn't right". That Executive-commissioned report was published earlier this month. It commits the Executive to developing a package of measures aimed at preventing work-related violence and protecting all public service workers. Measures will include training in the prevention and handling of aggression; a model system for recording incidents of violence and abuse; and means of helping employers to meet their legal responsibilities to minimise the risks of verbal or physical violence towards staff.

Partnership working is vital to the success of those measures. We are working closely with the Scottish Trades Union Congress, employers and professional bodies to implement them. I am delighted that the STUC has been so supportive of this work, because no one party can solve the problem of work-related violence. When the Executive, trade unions, employers and others come together, we can make real progress and deliver real differences to those on the front line.

Our recently launched media campaign "Abusing workers is bang out of order" is one such achievement. Developed in consultation with our partners, the campaign will raise awareness of this problem; show the personal impact of violent and non-violent situations; and hit home the message that verbal and physical abuse of public service workers should not and will not be tolerated.

Of course, the assault of any person is unacceptable and should be punished. However, assaulting or obstructing an emergency worker can have especially serious consequences for that worker and for those whom he or she is trying to help.

I am conscious that Margaret Mitchell had a point to raise and I am happy to take it now.

Margaret Mitchell: On the point about emergency circumstances, does the debate around whether accident and emergency extends to the rest of the hospital not show distinctly the confusion in second-guessing or boxing into legislation a specific set of circumstances as emergencies? Is that not why the flexibility of the common law should be used and would be more effective in those circumstances?

Mr Kerr: I clearly disagree with the member and we had some interesting exchanges about the subject in committee. I expect that that will continue with amendments that I am sure the member will lodge at stage 2. Section 1 of the bill will allow us to separate out those in our society who would seek to assault a firefighter, a member of the police force or someone who works in a hospital, such as a nurse, doctor or otherwise. The bill will impose heavy penalties on that individual and indicate that we are not prepared to accept such a heinous crime as the norm. We believe that specific legislation is the best way to tackle the particular problems faced by emergency workers responding to emergency circumstances.

The bill might be short, but let me make it clear that its policy objective is crucial. In supporting the bill, members will be showing that they believe emergency workers are entitled not only to our respect and appreciation, which they clearly have, but to statutory protection that will enable them to carry out their jobs free from additional and unnecessary risk.

Criminal sanctions alone will not deter people from offending behaviour. However, together with our other measures, I believe that the bill will make the difference for our emergency service workers. I commend the bill to Parliament.

I move,

That the Parliament agrees to the general principles of the Emergency Workers (Scotland) Bill.

15:14

Mr Kenny MacAskill (Lothians) (SNP): I welcome the minister's comments and the bill. I also pay tribute to his willingness to take on board the committee's comments. The committee is to be commended for its work and I am grateful that the minister has taken cognisance of many of its points.

It is clear that we face two problems in addressing the issue, one legal and the other social, as the minister said. The number of people involved is not necessarily huge, but the consequences of their actions are substantial. Anecdotal evidence appears to show that there is an increase in the problem. Such behaviour is a danger to those who are trying to do their job, it is a threat to those who are being attended to or assisted, and it is simply unacceptable.

The issue is not simply legislative, but cultural. The bill will not be a panacea, but it does two things. First, it gives additional protection to those who are entitled to it. It is fundamental that we give such people the fullest protection that we can so that they can do their jobs properly. Secondly, the bill gives a clear message that this legislature, on behalf of the society that it represents, views such

antisocial behaviour as intolerable and unacceptable and affirms that those who carry it out will be dealt with severely.

Emergency workers have a difficult enough task without their work being interfered with by loutish behaviour. They do their jobs to assist members of the public or to follow the policy directions that we make. They are entitled to the full protection that we can give them.

The debate on whether the problem is a legislative or a social one was touched on in committee; it is clearly both. A variety of organisations, such as the Law Society of Scotland and the Faculty of Advocates, have commented that we already have sufficient powers. That is true. We have common law powers and can create aggravated offences that can be referred to in the libel. All that is clear and we sympathise with that position. We are creating more and more law, and the more complex it is, the greater the likelihood of calamity. We must be clear that the law requires to be understood by all and not simply by the few. If we continue producing legislation ad infinitum, codification is ultimately essential. However, I do not think that we have reached that stage yet.

We must make it clear that there are two main reasons for the bill. First, attacks on emergency workers are symptomatic of a social malaise. Secondly, in enacting the bill, we will make it clear from the top down that such behaviour is unacceptable and that change must come from the bottom up. We have seen that before, to some extent, in the Police (Scotland) Act 1967, which the bill is partly attempting to replicate. We made it clear when we brought in that act that it was unacceptable to assault or impede a police officer in the exercise of his duty. The offence was not regarded as an aggravation of an assault or a breach of the peace, but as a specific offence that society viewed as intolerable. That has resulted in plea bargaining in an attempt to avoid conviction, which is not necessarily to be denigrated. It is part of the system in which we operate. However, the 1967 act made it clear that impeding or assaulting an officer is unacceptable. To some extent, the comments made to the committee by the Prison Officers Association Scotland touched on that.

There is no easy way; no legislative silver bullet. The minister commented correctly on that. The bill is part a multifaceted attack that we must make on unacceptable behaviour, if we are to ensure that it does not continue to fester. Sadly, there are people in our society who view uniforms as an incitement, service vehicles as legitimate targets and badges as a provocation. They are simply anti-authority, or against those whom they perceive as representing authority. Such people are nihilistic and antisocial and it is our duty as a

legislature to send out the message that their behaviour is simply intolerable, that they must desist from it and that we are determined to act against it.

As I said earlier, I think that the committee has done a vital job. The bill is well intentioned, even if aspects of it are flawed and require to be addressed. Our bill process has three stages and we are only at stage 1. However, it is to be appreciated that the minister has accepted many of the points made in the report, because it is important in a unicameral parliament that we get matters right.

My colleagues will touch on some other matters, but there are specific issues that I wish to make clear. Paragraph 118 of the committee's report refers to *mens rea* and it is important that we clear that up and simplify it. It is absurd if we are required to have an element of corroboration that an officer or paramedic was assaulted in the course of their duty. We must create a circumstance in which it is sufficient that a letter or form of authority from a chief constable or the director or chief executive of a health board confirms that emergency workers are members of their staff and, therefore, were acting in the course of their duty. There is no requirement for two people to be cited to speak to that. A certificate must be available to avoid that circumstance and we must take that on board.

On the Prison Officers Association's position, we are open to persuasion. I can see an argument both ways, because a prison officer is simply doing his duty, but he is doing a duty with which we entrust him and he is entitled to be protected whether he is in the private sector or in the public sector. If need be, we must ensure that that protection is given.

I also welcome the minister's comments on social workers. I was contacted by the chief executive of the social work department in the City of Edinburgh Council, who informed me that, from January to September this year, 222 incidents of assault on social work staff have been recorded: 95 reports of injury, from minor bruising through to general pain and soreness; and 127 reports of no physical injury. A total of 53 incidents were reported to the police, which is unacceptable.

There are circumstances—such as dealing with mental health issues or enforcing place-of-safety orders—in which we put the social work staff in the line of fire, whether or not they are accompanied by police officers. If we entrust them with that responsibility, it is our duty to ensure that we give them the maximum protection, and that is why I welcome the minister's comments that he will take on board the points that the committee raised.

The SNP hopes that the minister will learn from, and reflect on, the points that my colleagues and

the committee have made, but we welcome the bill as a step towards ending antisocial behaviour towards those who carry out difficult and dangerous jobs.

15:21

Margaret Mitchell (Central Scotland) (Con):

When we discussed the protection of emergency workers in January, I said—and I maintain today—that it is a core principle of any civilised society that emergency workers, to whom we all owe so much, should have the confidence and assurance that, in the course of carrying out their frequently dangerous duties, they will be protected by the full force of the law. The Executive then introduced a bill, the purpose of which was to address the problem of attacks on emergency workers and those assisting them in responding to emergencies. Like everyone else at the time, I signed up to that general principle in good faith—who would not? However, having looked closely at the detail of the bill and having examined and heard evidence from a variety of witnesses, I have been obliged to take a different view for the following reasons.

In the first place, the bill's policy intent, which at first glance appears simple, shows itself on closer examination to be confused in that it is not clear whether the main thrust is to prevent attacks on emergency workers or to prevent the consequences of such attacks, which could, at worst, mean a loss of life. It is little wonder that the committee criticised the policy memorandum to the bill for being

"generally lacking in detail and seriously deficient with regard to clearly establishing the policy intentions behind the Bill."

As a result the committee has had to spend valuable legislative time working out the general principles of the bill.

The Executive claims that it wants to do more for emergency workers by extending to them the kind of protection that is currently afforded to the police, but it has failed to consider the differences between the police and other workers. The police are always clearly identifiable as upholders of the law and, therefore, questions of proof that an accused person knew that someone was a policeman or policewoman do not arise. That is not the case with, for example, doctors or nurses out in the community.

The Police (Scotland) Act 1967 applies to anything that the police do while they are on duty, without differentiating the circumstances. The bill, on the other hand, seeks to cover only emergency circumstances, and defining those has proved extremely difficult. The Law Society of Scotland, among others, has also rightly expressed

concerns at the possible effect on prosecutions of legislation that tries to limit the law to workers responding only to such circumstances. That is the crux of the matter.

The Scottish Executive has set itself and, by extension, the committee an impossible task in trying to second-guess every conceivable circumstance that the bill could cover. Common law has the flexibility to ensure that assaults on emergency workers and the consequences of such assaults are treated with the appropriate gravity according to the individual circumstances of each case. The Executive itself has stated in its policy memorandum that that flexibility provides

"the best protection for public service workers as a whole, as it is reinforced by the Lord Advocate's guidelines to procurators fiscal emphasising that an attack on any worker delivering a public service is an aggravated offence."

There is more confused thinking from the Scottish Executive. Despite stating that the bill would raise awareness of the problem and act as a deterrent, the Executive says in its policy memorandum:

"It is unlikely that the Bill will lead to a significant increase in the number of prosecutions for attacks on emergency workers."

The deterrence and raising of awareness that the Executive seeks to achieve by introducing the bill can be attained through better application of existing law and higher penalties, together with a range of supporting measures, including a carefully targeted campaign to raise awareness of emergency workers' work and of the consequences of preventing them from doing it.

Furthermore, having conducted a consultation, the Executive failed to publish a detailed analysis of the responses. Had it done so, it might have realised that respondents to the consultation also raised important issues, including the Royal College of Nursing's concern, which others share, that the bill will create a two-tier system.

No reasonable person would sign up to the deeply flawed and confused principles in the bill. I therefore believe that this fledgling Parliament has reached a defining moment at which it can show that it has the maturity to reject a bill that I concede is well intentioned, but is also seriously deficient and unnecessary. In so doing, the Parliament would take the first steps to becoming the responsible institution that Scotland craves.

The Justice 1 Committee has made a valiant attempt to carry out the Executive's will. The committee has been critical, but I urge members of that committee and other MSPs to go further in the pursuit of good government and to take no part in conducting what is clearly a face-saving exercise for the Executive. To do otherwise would be to abuse how the committee system was intended to operate.

15:27

Margaret Smith (Edinburgh West) (LD): When we debated protecting emergency workers some months ago, I enthusiastically supported the need for legislation to deal with what I believed was the growing incidence of attacks on emergency workers. I was not alone. Most of the members who have spoken today spoke then and we were united in our support for the tremendous work of our emergency workers and for the need to protect them not only for their own sake, but for the sake of those whom they assist. We must send a clear message from the Parliament that assaults on emergency workers are utterly unacceptable to us all.

Unfortunately, the Executive's proposals to turn that support and concern into legislation are proving difficult and complex. The Justice 1 Committee has received a considerable quantity of evidence in support of the bill's general principles, but much of that evidence has been conflicting and confusing. As our report says, as a result, it has been difficult to reach a conclusion on the bill's general principles.

We have a very small bill—it is only a few pages long—yet the Justice 1 Committee had to ask for extra time to investigate it and has produced a stage 1 report that runs to more than 240 paragraphs. One reason for that is that in producing a bill that picks out workers for extra legal protection, the Executive has in effect opened a can of worms. The bill defines emergency workers as police constables, members of fire brigades, ambulance workers, coastguards, general practitioners, nurses, Royal National Lifeboat Institution crews and prison officers, and covers them only in emergencies. It is interesting that that list is different from the list of public sector workers to whom the Lord Advocate gave extra protection in his guidance to fiscals last year about aggravation of assault. Therefore, the list that the Executive has prepared lacks logic and consistency.

The committee expressed concerns about inclusions on and exclusions from the list. I would welcome its extension to include inland lifeboat crews, which Jackie Baillie mentioned. I highlight the case of social workers, as I have done ad infinitum at committee meetings. I welcome Andy Kerr's comments on such workers, whose position was raised in committee by social work organisations. As the minister said, he has agreed to consider the case for including mental health officers and child protection social workers, both of whom find themselves regularly in emergencies, certainly as defined in the bill.

Margaret Mitchell: Does the member agree that it would be worth while to consider the possibility of equipping social workers with alarms, which

could help them if they were to find themselves in such circumstances?

Margaret Smith: I do not disagree. I echo the point that Margaret Mitchell has made on many occasions, which is that anything that goes into the legislation should be only part of a wider package of protection for emergency workers, or, indeed, workers more generally. In particular, I would include national health service workers and care workers who go into people's homes on their own, who are distinctly vulnerable. We heard compelling evidence on that, particularly when we were told that such workers often undertake such duties without police cover.

The committee thought that the case had not been made for the inclusion of prison officers, partly because there was no evidence of need. One of the general problems that the committee had in scrutinising the legislation was that, although there was a certain amount of anecdotal evidence of an increasing incidence of assaults on workers, it was impossible, despite fervent attempts by the committee, to get much evidence of assaults against emergency workers in emergency situations. For that reason, we have noted that we have concerns about the reliability of some of the evidence that we have been given. There are certainly no sound statistical data on which to base the legislation.

Unison, the Scottish Trades Union Congress and others have lobbied hard on who should be included in the legislation. It is understandable that they think that either public sector workers or all workers should be included, which is a seductive argument, but we must consider what the legislation is trying to achieve. It tries to protect people whose job is to protect the rest of society from injury, and the impact of the legislation would be lost if it was significantly widened.

Rather unusually, the Justice 1 Committee has said that it wants to take further evidence at stage 2. We want to consider who is covered and whether it is right to go down the route of protecting only emergency workers in emergency situations. We share the concerns of many people, including people in the Law Society of Scotland and Unison, that that approach is too restrictive. In fact, Unison has gone as far as to say that it is concerned that the restriction could make a successful prosecution virtually impossible.

Crucially, a successful prosecution would rest on the prosecution being able to prove that the accused knew that the person whom he was assaulting or obstructing was an emergency worker, or someone assisting an emergency worker, in an emergency situation, which is even more difficult. At the committee, I used the example of a chain of support in a hospital for an emergency that involved not only front-line clinical

or medical staff, but pharmacists, people working in labs, blood technicians and so on. How would we prove that someone who was taking an organ to the scene of an emergency could be identified as an emergency worker in an emergency situation, or somebody assisting such a person?

The Executive thinks that it has covered some of those issues in section 3 by specifically mentioning hospital accident and emergency departments. However, evidence from the British Medical Association, the Royal College of Nursing and others shows that assaults on NHS staff happen beyond the confines of accident and emergency departments—they happen in psychiatric wards, general practitioners' consulting rooms and hospital waiting areas, for example. It is possible that we need greater clarity than is given in section 3. We ask the minister to reconsider whether including not only accident and emergency departments, but wider NHS premises would be clearer. We must ensure that no loopholes are left for people who wish to assault our NHS workers. We should protect those workers and accordingly we should consider whether we must extend the premises that are covered.

What difference would the bill make? I cannot cover all the issues that are raised in the committee's report, but I draw the attention of colleagues to pages 17 to 21 of it, which highlight the fact that the bill would deliver some differences at the margins. The majority of committee members thought that the bill had the potential to add value at the margins for certain groups of workers—particularly for those other than the police—and should be generally supported, with the caveat that all of us need to do further work at stage 2 to make it effective. That will include work on the definition of "emergency circumstances" and of those who are covered by the bill, as well as reconsideration of section 3.

As I said, it is crucial that the legislation should be seen as part of a wider package of measures that highlight the issue. I welcome the recent media and information campaigns to which the minister referred. If we pass tokenistic legislation, we will not support such things or put out the clear message that such behaviour is abhorrent to us all and we will do all that we can to prevent or punish it. We should pass legislation that is effective in delivering greater punishment for such acts, greater protection for emergency workers and greater deterrence. We have some way to go before the bill matches those requirements, but the seriousness of the matter warrants our continued attention.

With those caveats, I say on behalf of the Liberal Democrats that we support the bill.

15:35

Tommy Sheridan (Glasgow) (SSP): This is one of those occasions when there is a general consensus in the Parliament that something must be done, but we need to work out whether we are doing the right thing. Unlike Margaret Mitchell, I think that we need to ensure that, as the old saying goes, we do not throw out the baby with the bath water. The bill needs some serious changes at stage 2, but the idea that the entire bill should be opposed is unacceptable.

As members will recall, we began this attempt in the first parliamentary session, when we set out to secure a high-profile public statement from the Scottish Parliament that it would no longer be acceptable for workers who are employed to try to save the lives of others to find themselves under attack in any way, shape or form. At the time, firefighters in particular were on the front line, because a new, unfortunate and unacceptable sport had developed whereby fire service workers in various parts of Scotland were called out on false alarms only to be attacked by youngsters. That was utterly unacceptable, but it became a spur for this type of legislation.

Margaret Mitchell: Is the member familiar with the Law Society of Scotland's view that, in some circumstances, it might be more difficult to secure a conviction under the bill than it would be under common law? In other words, the bill could be counterproductive. Will the member reflect on that in his comments?

Tommy Sheridan: I am aware of the views of the Law Society and of other organisations, but I think that the thrust behind the bill is an attempt to achieve fewer convictions overall by influencing behaviour. We want to send out the message that anyone who in any way, shape or form assaults an emergency worker will receive much harsher treatment.

I appeal for more listening at stage 2 to the arguments for extending the definition of an emergency worker to include all public service workers. Like many members, I served as a local authority councillor for a number of years. During my 11 years as a councillor, the workers who were most commonly assaulted were housing officers who had bad news for tenants. When housing officers visited a tenant to deal with a garden that had not been tidied or repairs that had not been done or to say that action would be taken on arrears, they were often verbally or physically assaulted. Citizens in this country need to know that a public service worker who visits their home has extra protection. That should make people think twice before assaulting them verbally or physically.

A similar requirement exists for health visitors. The Royal College of Nursing and others have

given evidence at seminars about the situation that health visitors face when they visit people in their homes, especially when they have to deal with people with mental health difficulties. As the minister is aware, health visitors are also vulnerable when they are not in an emergency situation.

What constitutes an emergency situation? Bus drivers, who unfortunately face an increasing occurrence of assault, are not in an emergency situation. They are public service workers, but they will not be covered under the bill. Yes, we know that such assaults are covered by common law, but if we want to effect a change in behaviour patterns across Scotland, our whole thrust should be to send out a stronger message. The bill is almost a symbolic piece of legislation. It should say that public service workers across Scotland have not just normal protection but extra protection.

The bill's general principles deserve support at stage 1, but I hope that, at stage 2, the minister and the Executive will be willing to accept that the definition of workers who require extra protection should be widened to include public service workers and that the legislation should not be restricted simply to emergency situations. The bill should be much more relevant to an individual worker's role in society and the assailant's behaviour.

I appeal to the minister for fewer restrictions in the legislation. Its thrust is right and should be welcomed; it is about the Parliament sending out a message about emergency workers. However, as I have said, the definition should be widened to include public service workers, who also require extra protection.

15:41

Pauline McNeill (Glasgow Kelvin) (Lab): I begin by paying tribute to my committee members for their hard work in scrutinising the bill. I should also acknowledge the work of Stewart Maxwell and Michael Matheson, who are, sadly, moving on. Perhaps they do not find the prospect so sad, because now they do not have to deal with stage 2. Lucky them.

As Margaret Smith pointed out, although this is a short piece of legislation, it is not so simple. If we had known that the matter would be so complex, we might have considered not so much running away as appointing an adviser. Our stage 1 report is a careful critique of the policy and the bill's construction. We have examined in detail the evidential tests; the bill's scope and effectiveness; and its ability to secure convictions, which after all is what it is intended to do.

I acknowledge the commitment of the Executive and, in particular, the minister Andy Kerr to protect

public sector workers from general violence, as well as the minister's work with the trade unions on this matter. It is important to understand that although the bill's scope is currently very narrow, it can only work—however it is amended—as part of a wider campaign. In response to Tommy Sheridan, who gave a good speech, I should say that, as far as the committee can see, the Lord Advocate's guidelines on public sector workers are now operating effectively. If any public service worker—and I emphasise the word "service"—is attacked or assaulted in the line of duty, the courts will take the matter very seriously.

The committee supports the bill's principles because it believes that, at the margins, the legislation could add something to our criminal law. As far as the policy intention is concerned, those who have read the report will not have missed our remark that we felt that we lacked information about why the Executive supported the bill in this particular form. It would have been useful to understand why it proceeded with this particular bill instead of considering alternative approaches, such as the creation of an aggravated offence.

I seriously object to Margaret Mitchell's suggestion that the bill is a face-saving exercise and that the committee has been somewhat complicit in the process. However, I agree that the explanatory notes were not very helpful. For example, they say that the bill is modelled on the Police (Scotland) Act 1967, whose provisions are completely opposite to the approach that the bill takes.

It is important to understand that the bill proposes a summary offence that comes with a maximum sentence of nine months and a £5,000 fine. After all, we have to distinguish these offences from other cases that involve more serious violence and which should still be dealt with under solemn procedure and before a jury. There has been some confusion on that point. The committee is clear that the offence should be used only where appropriate and that we do not want other offences to be downgraded as a result of the legislation. We find it difficult to understand the Executive's view that the number of prosecutions would not increase if the new offence were introduced. We accept that the legislation could potentially have a deterrent effect; however, that has not yet been proven.

I must say that we found it difficult to take evidence because very few witnesses spoke to the bill itself. As Michael Matheson pointed out at the time, they were speaking to a virtual bill instead of the bill we had to scrutinise. The witnesses were all talking about different aspects of the issue, which made it difficult for the committee. The trade union groups wanted to lengthen the list of

workers and to widen the circumstances covered by the bill.

We are grateful to Anne Keenan and Gerry Brown of the Law Society of Scotland for their work, and to Morag Jack of the Faculty of Advocates. It is worth mentioning that Anne Keenan did a lot of work in presenting to the committee the case for looking further at evidential tests.

Who should be covered by the bill? The committee agrees that the key test should be whether groups of workers are routinely responding to emergency circumstances, because the consequences of their failure to act would be serious. We suggest that the Executive has to reconsider a few areas and I welcome what the minister said in his speech.

The committee whole-heartedly accepts that prison officers play a vital role in our prisons. In their work, they are exposed to violence and difficult situations. However, we are not convinced that, in legal terms, they will be covered by the bill's definition of emergency circumstances. If there were a prison riot or something more serious, we would use solemn procedure anyway and not the procedure in this bill. It is not that we do not think that prison officers should be covered, but we do not think that they are really responding to emergencies. At stage 2, we will have to explore that point further with the Executive. We are concerned about under-reporting and have heard that management discourages prison officers from reporting incidents of violence. We take that issue very seriously.

The evidential tests are complex and I do not intend to go through them all. However, work is clearly required. As I have said, the bill proposes an extremely narrow offence. It should be absolutely clear what the Crown is expected to prove in court in order to obtain a conviction. The Law Society of Scotland has suggested that that should be in the bill.

The committee asked this question: will the bill actually make any difference, or is the common law sufficient to protect our public sector and emergency workers? If members have read the committee's report, they will know that we believe that the bill can make a difference at the margins, because greater sentences and penalties will apply.

The committee has said that, unusually at stage 2, it wishes to take further evidence on who and what circumstances should be covered. We want the Executive to consider widening the definition of emergency circumstances, because we are concerned that the present definition is so narrow that it will exclude a lot of cases. I am also concerned that, if the bill does not make it clear,

an expert witness might be required in court to define an emergency circumstance.

We want to ensure that this is workable law. It is only a small piece of legislation but it could be crucial. It could add benefit as part of a wider package of measures. We need to look more closely at who should be covered and at what parts of a hospital should come under the bill's definitions. If the Executive gives us a bit of time to enter into dialogue, I am sure that we can come up with a piece of legislation that is worth while, useful and important in a package of wider measures to protect our public sector workers.

15:48

Michael Matheson (Central Scotland) (SNP): I have been on justice committees for five years and, of all the legislation that has come through, this bill is probably the smallest that I have had to deal with. That said, the drafting of the stage 1 report for this bill has probably been the most difficult. That was not because of the complexity of the bill, because the bill is relatively straightforward and simple. However, the consequences of the bill made it difficult to deal with, as did the failure of the Executive to prepare the arguments explaining why the legislation is necessary. Some members have already mentioned that issue, and I will return to it.

Although we are talking about the Emergency Workers (Scotland) Bill, it is important that the message that the Parliament sends out is that, regardless of whether someone is an emergency worker or a worker who is responding to emergency circumstances, they have a right to go about their daily work without hindrance or abuse—physical or verbal—and such hindrance or abuse will be not be tolerated. It is important that we do not focus simply on emergency workers.

When I first considered the bill, my view was that we should think about a bill that was about the protection of all workers rather than just emergency workers. I have a lot of sympathy with some of the issues that Tommy Sheridan raised, but it is important that we do not start to distinguish between someone who is employed by the public sector and someone who is providing a public service. Although someone who works for FirstBus is working for a private company, they are providing a public service. We must not go down the route of making such a distinction.

Tommy Sheridan: I have a small point of clarification. When I spoke about people who provide a public service, I meant people who provide a public service rather than public workers. As we know, most bus drivers are not public workers even though they perform a public service.

Michael Matheson: I take on board what Tommy Sheridan says, but I reiterate that it is important that we do not send out the message that we are talking only about workers who are employed by the public sector.

When I considered the evidence that had been submitted to the committee, I began to support the need to address the situation of emergency workers in particular because, if they are hindered or obstructed in carrying out their work, that could have an impact on other individuals. Although most of the written evidence that the committee received was generally supportive of the bill, as Pauline McNeill mentioned, most of the oral evidence that we took was about a virtual bill—witnesses spoke about the bill that they would like to be drafted instead of focusing their comments on what was in the bill under consideration. We had to go over many matters repeatedly to tease out the issues that some of the witnesses had not been able to address in their evidence to the committee.

As members have already highlighted, the bill contains a number of limitations which, as paragraphs 21 to 25 of the committee's report show, the unions have serious concerns about. The STUC would like the bill to go as far as to widen its definition to cover workers in general. There might be a need to provide greater protection to all workers at a future date and, if necessary, that should be given serious consideration.

Some members have picked up on the lack of detail that the Executive and the minister have provided. I have serious concerns about the quality of the bill's policy memorandum. For example, paragraph 5 states:

"This Bill provides specific protection for emergency workers similar to that provided for police officers in the Police (Scotland) Act 1967."

That is factually incorrect—the bill does not do that. It provides protection only to emergency workers who are responding to emergency circumstances. The Police (Scotland) Act 1967 provides protection to police officers when they are on duty, regardless of whether they are responding to emergency circumstances. It is important that such issues are highlighted and addressed, because people set their expectations on the basis of the arguments that the Executive puts forward.

The Executive suggests that one of the key reasons for introducing the bill is so that it will act as a deterrent. I think that it will act as a deterrent to some degree, but the Executive presents no evidence to support the claim that that is what will happen. We have a huge amount of legislation on a range of issues relating to criminal behaviour. One could say that if we were to keep legislating,

we would do away with criminality, but the reality is that legislation by itself will not do that. That is why it is important that the Executive regards the bill as only one element of a programme that will be rolled out to deal with violence against workers and sends out a much wider message.

Paragraph 7 of the policy memorandum says:

"Over the summer of 2003 the Minister for Finance and Public Services held an extensive series of consultations with trade unions and professional bodies"

and so on. We then get only two paragraphs detailing exactly what came from that consultation exercise. In the policy memorandum for the Gaelic Language (Scotland) Bill, which was published this week, more than three pages are devoted to what came out in the consultation exercise.

It is important for the Minister for Finance and Public Services to take on board the deficiencies that the committee's report highlights in how the Executive has handled the bill. I would go so far as to say that the way in which the Executive has presented the bill is disrespectful not only to members of the Justice 1 Committee but to the parliamentary process. If he is serious about legislation, the minister should at the very least marshal the proper arguments to justify the policy objectives in the bill. I hope that the minister will take those points on board and will deal with the civil servants who might be responsible for issues relating to the policy memorandum, because it is simply unacceptable to receive information in that fashion. It is precisely because of that lack of information that the legislation has been delayed so long in the committee.

I hope that the minister will go further and will rectify a number of the areas that the committee has highlighted as needing to be addressed at stage 2. The Justice 1 Committee's stage 1 report is far from a ringing endorsement of the legislation. A lot of work needs to be done, which the minister should have done at an earlier stage, but I hope that members will give the bill a fair wind at this point and support its general principles.

15:56

Bill Butler (Glasgow Anniesland) (Lab): To echo Michael Matheson, when I first saw the slim, four-page Emergency Workers (Scotland) Bill, I did not suspect what lay in store for him, me and other committee colleagues. I suppose that we judged that such a bill's policy intention would meet with universal support and that its passage would present few difficulties. Given that a four-page bill has given birth to a stage 1 report that stretches to 48 pages and contains 217 paragraphs, perhaps the latter part of the committee's judgment has been proved to be overly optimistic.

I still believe—I am sure that all members of the committee concur—that the bill's objective of creating a specific offence of attacking an emergency worker who is responding to an emergency, as part of a wider drive against antisocial behaviour and as part of a wider package to protect public service workers, is laudable and praiseworthy; it is a good thing. I suspect that everyone in the chamber would agree with the minister, who said in his foreword to a recent document that was published in conjunction with the Scottish Trades Union Congress, employers and professional bodies:

"No one should ever have to face violence and abuse as part of their job."

The bill is clearly intended as part of the Executive's and Parliament's drive to create a society in which workers can go about their business without fear of assault, obstruction or hindrance. However, as the committee's lengthy report suggests, there is still much work to be done to turn those worthy aspirations into good and effective legislation.

I will concentrate on a number of aspects of the bill that have given the Justice 1 Committee great difficulty and which have resulted in many hours of rather tortured, and certainly tortuous, discussion before it was able to reach a majority conclusion. One area where the committee faced difficulty was the nature of the information that was made available to it—other members have referred to that. The information was of an especially limited and inconsistent nature with regard to whether the nine groups of emergency workers that are mentioned in the bill have suffered a significant increase in attacks when dealing with emergency circumstances in recent years.

I stress that the committee, on the initiative of its convener, Pauline McNeill, made a real effort to find reliable and consistent evidence of trends in respect of such violence against emergency workers. However, because of significant inconsistencies in the evidence that was supplied by the Executive and by other organisations, members were left, as the report states,

"seriously concerned about its reliability."

The inconclusive nature of the information that was provided did not assist—to say the least—the policy intentions behind the bill. I hope that the Executive will in the future acknowledge the need to provide scientifically significant and reliable data in support of its policy intentions. To allow a committee to search around for such evidence to supplement the admittedly considerable amount of anecdotal evidence that was presented to it is, I respectfully suggest, not the most efficient way to proceed.

Another example of when the committee had to make considerable efforts to elicit information was

on the vexed question whether existing provisions were sufficient to protect emergency workers from attack and obstruction, as some witnesses argued, or whether the bill had the potential to provide emergency workers with additional protection from assault and obstruction and to make a genuine difference to the level of attacks on such workers.

On pages 19 to 23 of the committee's report, a helpful assessment is provided in tabular form of the added value that the bill would provide for most, if not all, the nine groups of emergency workers. I think, as did the majority of committee members, that the bill will provide additional protection for such workers, especially in relation to increased summary sentencing powers of up to nine months' imprisonment or, alternatively, a £5,000 fine.

Enough evidence was heard by the committee to suggest that such legislation has the potential, if enacted properly as part of a wider package of measures, to have a deterrent effect. We received evidence in support of that view from Unison, the Fire Brigades Union and CACFOA, as is evinced in paragraphs 89 to 91 of the report.

Above all, the elements of added legal protection and the potential to deter were enough to sway the majority of committee members to support the general principles of the Emergency Workers (Scotland) Bill. I hope that the minister, who has promised to give full consideration to the many points that were raised by the committee, takes seriously the many extant weaknesses in the bill and does all that is in his and the Executive's power to work with the committee to rectify those deficiencies at stage 2. The committee is at one when it states in its report's conclusion that it expects

"significant changes to be made at Stage 2",

especially in relation to specifying groups of emergency workers on the face of the bill and with regard to the section that defines emergency circumstances.

If we can work in such a co-operative manner, effective and strong legislation can be fashioned. As it stands, I will vote at decision time for the bill to proceed because its general principles are worthy of support. I regret the fact that the Conservatives will not vote for the bill this evening; I believe that that is a mistake.

Workers in Scotland require strong legislation to support them. By working together, let us ensure that the next two stages of the bill deliver a resilient act that is fit for purpose.

16:03

Miss Annabel Goldie (West of Scotland) (Con): I am absolutely certain that everyone in the

chamber is united in condemning the quite unacceptable behaviour of people who attack our public sector workers when they are doing the jobs that we entrust to them. That behaviour is unacceptable and must be the subject of criminal proceedings if the culprits are to be identified, detected, charged and then—it is to be hoped—convicted.

The dilemma for us is to take that worthy aspiration, which is shared by numerous contributors to the debate this afternoon, and to be absolutely objective and honest about whether we are turning that into the criminal legal framework that the bill aspires to. As has been suggested by my colleague Margaret Mitchell, it is the Conservatives' opinion that that objective is not being achieved. That is not to impugn what I know is the united endeavour and will of members to create an acceptable environment for workers in our public services.

I come at the matter from two angles. I read with interest the Justice 1 Committee's report, because there is an issue about the integrity of our committee system. Many of the committee's members have been frank in their comments about the task that confronted them; clearly, it was challenging. The conclusion at paragraph 28 of the report refers to the committee trying to come to a view on the general principles of the bill. It states:

"Much of this evidence has been conflicting, firstly with regard to the need for the legislation and secondly with respect to proposed amendments to it. It has, therefore, been exceptionally difficult for the Committee to reach a conclusion on the general principles of the Bill."

The question that I must pose is this: how can there be unqualified support for the general principles if the committee has clearly been lukewarm during its consideration of those principles?

Tommy Sheridan: Will the member accept that what she has heard so far in the chamber is not unqualified support for the general principles, but qualified support? We are looking for amendments at stage 2.

Miss Goldie: Yes, and I say to Mr Sheridan that that goes to the nub of the issue. I started my remarks by saying that there has to be an honest appraisal of any legislative proposal. I submit that my colleague Margaret Mitchell, who is on the Justice 1 Committee, discharged that objectivity and honesty by stating candidly in the report that there are concerns that preclude the Conservatives from supporting the bill as it is drafted.

Paragraph 54 of the committee's report, for example, refers to what is supposed to be the *raison d'être* of the bill:

"Given the limited and inconsistent information made available to the Committee it has been unable to reach any

firm conclusion on whether the nine groups of emergency workers on the face of the Bill have suffered a significant increase in attacks on them when dealing with emergency circumstances in recent years."

The committee is candid, because it

"considers that the absence of such information seriously undermines the policy intentions behind the Emergency Workers (Scotland) Bill."

In fairness, Bill Butler alluded to that deficiency, but it begs the following question. If those are the genuine concerns of the committee, what are we legislating for? What is the underlying purpose of the bill that will be achieved by the way in which it is drafted?

Bill Butler: Will the member give way?

Miss Goldie: I would like to make progress with my line of argument.

Pauline McNeill, the convener of the Justice 1 Committee, repeated one of the most telling phrases in the committee report, which comes in paragraph 110. Members should remember that this is a committee stage 1 report on legislation to be enacted by this Parliament. The committee concluded

"that the Bill will add, at the margins".

The question that must then be asked is this: are we as a Parliament doing our best by the very workers whom we all aspire to protect? Are we creating an environment that is safer and, in terms of criminal law, better regulated to deal with the offenders who offend against them? As an onlooker—I am not a member of the Justice 1 Committee—I have profound questions about the workability of the bill.

If I may, I will address the more technical aspect, to which my colleague Margaret Mitchell referred, which is the concept of common criminal law and statutory criminal law. My greatest fear is that there is a genuine misconception on the part of the Executive as to the value of Scottish criminal common law. That law is flexible and we have the capacity to introduce aggravated offences—we can do that now. The Lord Advocate has issued guidelines. We can increase the penalties that are available to our courts that find offenders before them and which have, on conviction, to determine appropriate sentences.

Looking at the bill as it is currently structured, and having regard to the Justice 1 Committee report—which, in my judgment, my colleague Margaret Mitchell was absolutely right to dissent from—I believe that a paradise will be created by the bill. The perversity is that it will not be a paradise for emergency workers, but a paradise for criminal defence solicitors, who will have a field day when the legislation reaches the statute book. That is a cruel disservice to bring upon emergency

workers, whom all members value and seek to serve responsibly. That is why the Conservatives have grave reservations about the bill.

The bill will not do what we need to do. The minister said that by supporting the bill we will be showing our wish to protect emergency workers—I apologise if I have paraphrased his words incorrectly. In fact, by supporting the bill we might show our wish to augment the earnings of criminal defence solicitors and lawyers and we might do very little for emergency workers. That concern must be articulated, which is why my party is unable to agree to the general principles of the bill at stage 1.

16:10

Paul Martin (Glasgow Springburn) (Lab): In recent weeks, members have been accused of a tendency to say, "It wisnae me." However, I confirm that it was me—I raised the issue of protection for emergency workers in the previous session of Parliament, during the passage of the Criminal Justice (Scotland) Bill, when I lodged amendment 75 at stage 3 in response to concerns about attacks on firefighters in my constituency. I remember receiving widespread support from members and I am delighted that the Lord Advocate's guidance on the matter has been well received in courts throughout Scotland.

Experience has taught many of us that if we become complacent about how we implement guidelines, things fall by the wayside. The Executive should be commended for not being complacent on the issue. I appreciate a number of the points that Margaret Mitchell, Pauline McNeill and others raised about the complexity of the issue, but the fact that complex issues present us with serious challenges should not prevent Parliament from raising its game and ensuring that it takes on the serious issue of public sector and emergency workers being attacked in their communities. It is unacceptable and repugnant that people who work in emergency services, particularly firefighters and paramedics, should be attacked. I welcome the Executive's approach.

The detail of stage 2 should be left to the Justice 1 Committee. I will raise a number of important issues that should complement the bill. First, we must consider how we educate young people about the importance of public services that are delivered in communities. All too often, the curriculum in educational establishments does not cover the importance of public sector workers, but the bill presents an opportunity to inform young people about the important role that firefighters, police officers, paramedics and other emergency workers play. The Minister for Education and Young People and the Minister for Finance and Public Services could work in partnership to

consider complementing the legislation with measures to tackle unacceptable behaviour in communities. It is not just young people who become involved in attacks on firefighters and paramedics; people who belong to various age profiles give our public sector workers a hard time.

I agree with Tommy Sheridan that housing officers have a difficult time of it out there and I would not oppose attempts to explore the possibility of extending the bill to cover such workers and others who are affected in their daily lives. Traffic wardens were mentioned. They are perhaps not the most popular individuals but they, too, serve communities in one way or another.

Tommy Sheridan: The member is taking things too far.

Paul Martin: Tommy Sheridan has a sense of humour—that is welcome news.

There is a serious issue about how we ensure that organisations put in place procedures for staff to report attacks. I have met staff from a number of organisations—particularly health organisations—and it is evident that staff are not confident that their reporting of attacks will be taken seriously.

I welcome the Executive's proposed requirement—as stated in the explanatory notes to the bill—that organisations set in place a method to ensure that members of staff are taken seriously when they report concerns or attacks at their places of work and that such incidents are recorded properly. That deals with some of the issues that were raised by the Justice 1 Committee at stage 1.

In debates on this subject, we often miss out consideration of how we can prevent the attacks from happening in the first place, and of the design of the areas or environments where they occur. I have seen examples of health boards examining the design of accident and emergency departments to ensure that attacks become much more difficult. Let us consider how we can prevent attacks from happening in the first place. Let us ensure that the public are informed of the importance of public services. I want the Executive to add to the existing legislation, which will send a clear message that attacks on our public sector workers are absolutely unacceptable and will not be tolerated in a modern democracy.

16:16

Stewart Stevenson (Banff and Buchan) (SNP): Bruce McFee and I are very much looking forward to serving on the Justice 1 Committee during stage 2 of the bill. I have been allowed a bit over a year of time off from the committee for good behaviour; Bruce McFee, being the novice that he is, is a first offender. Please be gentle with him during stage 2.

From my reading of the bill—I have, of course, not had the opportunity of studying it to the same depth as other Justice 1 Committee members—the question that goes to the heart of the matter is this: why do we wish to protect emergency workers? The question why is key to understanding whether we should do something, and what it is that we should do. The answer in this case is straightforward: it is because emergency workers protect those whom they assist. The existence of emergency workers, and the work that they do, serves a broader public purpose, which is of broader benefit.

The bill seeks to protect a relatively small number of people for the benefit of a very large number of people—the public as a whole. That goes to the nub of the matter, in that we are seeking to deliver a benefit to a large number of people. We are seeking to help the general population—all of us—when we are in extremis. The aim is to save life and to mitigate the effects of emergencies.

The partnership agreement says:

“We will protect emergency workers from assault and obstruction.”

I contend that achieving that, and serving the purpose that we all share in this respect, does not require us to define who emergency workers are, but rather to define what an emergency situation is and what an individual, whatever their qualification, rank or employment—indeed, it could be a volunteer—is doing. If the bill were to be amended at stage 2 so as to delete subsections (1), (2) and (3) of section 1, which deal with the definition of “emergency worker” and so as to open with what is currently subsection (5), which defines emergency circumstances—that is the nub of the bill, as nothing matters unless emergency circumstances exist—we could move on to identifying whether a person is responding to an emergency, but without having to specify that person.

Margaret Mitchell: Does the member appreciate that that is the nub of the problem? Just as it is difficult to define, by second-guessing any situation, who could potentially be an emergency worker, it is even more difficult to define and second-guess what circumstances could arise to constitute an emergency. That is why we must consider the individual circumstances of each case and use the common law, with all the increased powers of the Lord Advocate under the aggravated—

Stewart Stevenson: I think that we have got it. Curiously enough, I do not necessarily disagree with Margaret Mitchell's analysis, but I disagree with her conclusion.

There is scope for improving the law in this regard. After all, we are talking about relatively

low-end offences. However, before talking about the law—I do not have much time—there are practical things that we should consider doing. For example, how much would it contribute to the safe operation of accident and emergency departments if we excluded non-patients where drink had been taken? Should we breathalyse people as they come into the department on a Friday or Saturday night? Funnily enough, that might deliver a huge benefit.

The minister responded to a question about the Loch Lomond Rescue Boat—a voluntary organisation, of which there are many. I am concerned that if we keep focusing on defining the people, we will exclude many of those whom we would wish to include.

Tommy Sheridan led us into slightly murky waters by talking about public service workers. I argue that that would include us—at least that is the way in which I seek to discharge my duties—so there would be difficulties with that.

The present definitions create problems. Let us envisage a situation in which somebody comes into an accident and emergency department with a double-barrelled shotgun and a doctor and his secretary are at reception, standing back to back. The secretary is there from another department to talk about the Christmas party with some of the people in the department. The double-barrelled shotgun injures both the doctor and the secretary, but one of them comes under the bill's remit and the other does not. If, on the other hand, they were standing face to face discussing an issue relating to the work of the department, the bill would apply to both. That is because at present the bill defines the people rather than the actions to which it applies.

There has been discussion about solemn procedure versus summary procedure.

Tommy Sheridan: Will the member take an intervention?

Stewart Stevenson: I am in my last minute. I am summing up.

The Deputy Presiding Officer: You can take an intervention if you wish.

Stewart Stevenson: In that case, I will.

Tommy Sheridan: It will be short. Surely the example that Stewart Stevenson gave is not that helpful, because in the circumstances that he described, the person would be charged with attempted murder. We are talking about extra protection, so I am not sure that the example was illuminating.

Stewart Stevenson: Let us suppose, instead, that the person in the example throws paint over the doctor and secretary. The general point is

illustrated in broad terms—the bill makes distinctions between people that are not related to their actions in emergency situations, which I think is unhelpful.

I say to Annabel Goldie that in considering the bill we are not, as she appeared to suggest, required to agree with it as it is presently framed.

Miss Goldie: That is the difficulty. The question is whether the bill is in a form in which it can be made good. Our submission is that it cannot be made good; it is fundamentally flawed.

Stewart Stevenson: It will be for the convener of the Justice 1 Committee at stage 2 and the Presiding Officer at stage 3 to determine whether amendments will enable us to maintain and sustain the general principles of the bill. The long title of the bill allows us to see what they are likely to conclude. It is:

“An Act of the Scottish Parliament to make it an offence to assault or impede persons who are providing emergency services; and for connected purposes.”

That does not require us to define those people as medically qualified, nurses or doctors.

All sorts of issues of definition might cause us real difficulties. One of the curious issues relates to my personal life. Paragraph 165 of the Justice 1 Committee's stage 1 report suggests that only police constables have powers of arrest. That of course is not true. Nearly 40 years ago, I spent an enjoyable summer with a warrant card in my pocket when I was a water bailiff under the salmon fisheries acts. I do not imagine that we would want to respond to that fact by extending the definitions to cover my summer job as a water bailiff. By the way, I admit that purely on the basis that it will be excluded from the *Official Report*, in case people get to know about it.

We are, I hope, all seeking to solve a problem of which we have a common understanding. I suspect that that is the case. The bill—imperfect as it is—is our best opportunity to do so. I hope that all members will find it possible to accept the general principles so that we can move forward to an improved act derived from the bill at stage 2.

16:25

Karen Gillon (Clydesdale) (Lab): I register my interest as a member of Unison and as the wife of a psychiatric nurse.

In September 2002, I was fortunate to secure a debate in the Parliament on emergency services staff. The debate was held at a time when the number of vicious, sustained attacks on emergency services staff was increasing and causing considerable concern in communities. In that debate, members asked for consideration to be given to the provision to other emergency

services staff of the level of protection that is given to the police in responding to emergencies. I am pleased that the bill will go some way towards doing that.

The bill gives protection in certain, limited situations. Surely, if someone is caught in a fire, is a victim of a road accident or needs treatment at an accident and emergency unit, the staff who provide them with a quality service deserve better protection under the law. However, we must be careful to ensure that, when offences are committed, they are not downgraded and prosecuted under the new legislation instead of being prosecuted under more serious legislation. Let us imagine a situation in which a brick is thrown through the window of a fire engine, which is then unable to make its way to a fire with the result that the fire causes much greater damage to humans or property. That offence is not adequately covered by the current law. For that reason, the bill will provide much greater protection.

However, one of the examples in the Executive's guidance—the case of an ambulance worker being stabbed—is not an especially helpful illustration of the bill's effect, as such an offence should be prosecuted under the law on assault or attempted murder. There are situations in which both types of legislation can apply. The Parliament has to acknowledge that our emergency staff need extra protection in responding to emergencies, as they still receive those attacks and people still require to be prosecuted.

I thought that the bill was quite simple until I came into the chamber today and listened to other members' speeches. Clearly, a lot of work remains to be done at stage 2. We need to define much better the section on emergency situations so that there is absolutely no room for dubiety in the law regarding what is and is not an emergency situation. The groups of workers that are named in the bill need to be looked at in more detail.

I welcome the minister's commitment to reconsider the position of social workers who operate in emergency situations. Nevertheless, he needs to look slightly further and wider. First, in relation to nursing staff in psychiatric admissions wards, it is not clear why the bill makes no mention of mental health staff. Emergency situations will exist in those wards. Although I appreciate the fact that it is a complex legal issue, it seems bizarre that there is no specific section relating to mental health staff.

Secondly, there is the position of staff in the state hospital in my constituency. The state hospital provides a unique service that we require and the staff who work there may well find themselves responding to an emergency situation, yet there is no specific reference to them in the

bill. Prison officers are included, and the minister said that it is the view of the Executive that prison officers should be included because they provide emergency services in our prisons. I know that there is some argument about whether prison officers should be included; however, if that is the rationale that is being put forward by the Executive, I argue that the staff at the state hospital should similarly be included, as they provide the emergency service within the state hospital. I therefore urge the minister to reconsider that staff group, and I hope that when the committee is taking further evidence for stage 2, it will examine specifically the position of the staff at the state hospital.

The bill considers a specific set of situations, but there is little that I could disagree with in Tommy Sheridan's speech. It is clear that there is significant concern about attacks on public service workers and workers in general, be they hospital porters, bus drivers, call centre staff, the local village shopkeeper, health visitors, Benefits Agency staff or, dare I say it, traffic wardens. There is clearly a desire, particularly from our colleagues in the trade union movement, to expand the focus of the bill. My union, Unison, has called for a much wider definition to be included in the bill.

Although I am sympathetic to that point of view, that is not the focus of this bill. If there is a need to legislate to provide greater protection to public service workers, we should do so, but a separate bill would be required. I would like the Executive to evaluate the effectiveness of the Lord Advocate's guidance; to consider how it has been implemented during the period for which it has been in place; and to examine what other measures, whether through legislation or by other means, are needed to provide much greater protection to our public service workers.

Society must begin to acknowledge and accept that attacks on any worker who is going about their job are unacceptable. Workers deserve to be able to do their jobs without fear of verbal abuse or physical attack. I welcome the current publicity campaign that shows how verbal abuse can lead to someone spitting on someone, and then to someone being physically assaulted. We must stop that chain of events at its earliest stage so that it is not allowed to escalate. The publicity campaign goes a long way towards that.

My colleague Paul Martin made several valuable comments about the role of education and how we can begin to educate children and their parents to the effect that it is totally unacceptable to attack any worker who is going about their job, whether that attack is physical or takes the form of shouting down the phone.

I will support the bill, although changes will be required at stage 2. The bill will enhance our

criminal justice system in a specific set of circumstances for those emergency workers who provide support to us when we need it in an emergency situation. I hope that the chamber will support the bill.

16:32

Donald Gorrie (Central Scotland) (LD): I do not have the pleasure of serving on the Justice 1 Committee. I came to the issue thinking—as I am sure that most people do—that it seemed to be a good idea to protect emergency workers in such situations. However, having toiled through the report carefully during the past day or two, I think that it is quite the most critical committee report on a bill that I have ever read. The next bill that we will need will be one to protect ministers and departments from savage attacks by committees.

I suggest that the minister should take longer than usual before stage 2 so that he and his colleagues can work out how to meet the report's many criticisms. Like Edward II, he should go home and think again about some of the aspects of the bill.

A lot of people have made very good points criticising the bill. I will run through a few of them. There is the question whether going for aggravation of existing offences would work better than inventing new offences. I am not a lawyer and my only experience is of introducing a bill section about offences that are motivated by religious hatred. That use of aggravation seems to have worked well and, so far, 110 people have been found guilty of the offence and of the aggravation. Therefore, it is worth considering the approach of aggravation.

The Executive must be clear whether the bill seeks to help the emergency workers or the people who should be receiving the emergency services and are not. The purpose of the bill must be clear.

Stewart Stevenson: I agree with the member. Does he agree that the meals-on-wheels service arriving at an old person's house and finding that vandals have set a fire at the front would constitute an emergency service?

Donald Gorrie: That is probably right.

The bill involves defining an emergency worker, what an emergency is and where it is. Personally, with a reasonably fresh view of the issue, I find it a ludicrous concept that it is a bigger crime to thump a nurse in one part of a hospital than it is to do so in another part. In fact, thumping auxiliary workers does not seem to be an offence at all under the bill, although it is an offence under other legislation. The bill does not seem to protect doctors in surgeries, although other laws protect

them. The bill is very specific and involves unnecessary identification and categorisation. As has been said, the bill's provisions mean that it must be proved that an offender had reasonable grounds for knowing that the person whom they assaulted was an emergency operative and that the situation was an emergency. As Annabel Goldie said, that will be a lawyer's charter.

Parts of the bill are seriously unnecessary. I would like to explore further ideas that have been suggested by some unions. Unison in particular thought that the bill's distinction between an emergency worker and a non-emergency worker was illusory. The STUC proposed a protection of workers bill. Other people mentioned most other categories of workers. We had a welcome assurance from the minister that social workers would be included in the bill, but they should be included whether or not they are involved in an emergency.

Housing staff also get assaulted frequently, as Tommy Sheridan said. Benefit staff get assaulted. Bus drivers get assaulted. Ticket collectors on trains, who do not have a very romantic job, have serious trouble with difficult people. Hospital workers other than doctors and nurses, people who are involved in mental health services and traffic wardens all get assaulted. Shop staff also get assaulted. A shop assistant who refuses to serve an under-age person with booze is performing a useful public service, yet is liable to be thumped. They all deserve some protection. Even MPs are vulnerable. One of my political colleagues was injured and his assistant was killed when the MP was doing his public duty.

Many people who work for the benefit of the public should get protection. That may mean that it will be necessary to have another bill. I personally think that the bill's focus on emergencies is wrong. However, we have the bill and it is important to send out a clear message to the public that assaults of all sorts are not acceptable at all. Firemen and so on, in particular, need to be protected much better than they seem to be at the moment.

We will not send out a good message if we have a bill that does not work. To change attitudes, the minister and the committee have a lot of work ahead of them to produce a bill that works. The committee deserves great credit for its report and I look forward to its producing, along with the minister, a bill at stage 2 that we can genuinely vote for at stage 3; otherwise, I will not vote for it.

16:38

Bill Aitken (Glasgow) (Con): I have not previously been involved in this matter but, as I have listened to the debate unfold, I have become

more and more alarmed. That is a commentary on the bill rather than on members' speeches, which I thought were sound and made well-argued points.

Let us start from the basis on which we all agree, which is that there is a problem of unacceptable behaviour by those who should know better but clearly do not in respect of attacking firefighters when they are attempting to rescue people in emergency situations, and assaulting and interfering with hospital workers and others who are endeavouring to contribute to society. It is not surprising that the Executive should represent the views of the Parliament as a whole in wanting to do something about the problem. The good intentions that lie behind the bill are not doubted for one moment. However, I take issue with the idea that legislation is the best way of solving the difficulty, because there are a number of ways in which it could have been solved.

First, the difficulty could have been resolved by examining the Police (Scotland) Act 1967, which has not been without its interpretive difficulties. In a group disorder that is attended by plainclothes police officers who grab hold of somebody who then assaults one of the police officers, the question of identification arises: how did that accused person know that the individuals were police officers? That is one example of the difficulties that occur, and Mr MacAskill will agree that it is not an infrequent one. We are asked to approve a bill that makes the difficulties of definition and of establishing mens rea much more complicated. That is not how we should be proceeding, because there are so many more sensible approaches.

We should rely on the common law. Time and again when the Executive frames criminal justice legislation, it diverges from the basic sound principles of common law. The common law has been established over centuries. It has been made through judicial decisions that have, frequently, been subject to appeal and it not only reflects, but frequently changes in accordance with, the way in which society is moving. Therefore, why is the Executive reluctant to rely on the common law and why is it almost obsessed with legislating and tying things down in a manner in which they do not need to be tied down? That is unnecessarily restrictive.

There are other ways in which the Executive could have used existing legislation. Why did it not increase the sentencing powers that are available to summary courts by implementing section 13 of the Crime and Punishment (Scotland) Act 1997, which could in turn have been used to adjust the summary procedures legislation? Why did it not implement the recommendations of the McInnes report? That report seems, strangely enough, to

have been kicked into the long grass at the moment, so we will have to await developments on that. Why did it not accept the stage 3 amendment to the Criminal Justice (Scotland) Bill that was lodged by Paul Martin, who was exceptionally active on the protection of emergency workers? That would have dealt with the matter. Why did the Executive not accept the amendment in my name to increase to 12 months the sentencing powers of the summary courts? That would have dealt with all the specific difficulties much more efficiently than the bill. Frankly, I think that what is likely to end up on the statute book will have so many complications that it will be a lawyer's paradise, and heaven knows what the legal aid bill will be.

Mr MacAskill: I have some sympathy with the points that Bill Aitken makes on the bill being a lawyer's paradise, but even the common law is subject to that criticism and we sometimes simply have to rectify law that we created as a reaction to a specific issue. For example, legislation was brought in to deal with the possession of weapons, which was viewed as a significant problem, because we wished to highlight the fact that the common law was dealing with it inadequately. It became a beanfeast for lawyers debating what length a knife had to be before it fitted the definition, but we closed down the loopholes through legislation. There will be problems with the definition of emergencies, but if we create the legislation, we can deal with the problems that will arise anyway.

Bill Aitken: I do not disagree profoundly, but the firearms legislation was more specific than what is proposed in the bill. That is the basic issue. When I look through my notes on the speeches in the debate, I see that every member has expressed serious concerns about whether the bill will be able to work. Pauline McNeill used the phrase "workable law", but the fact of the matter is that the bill is not workable law.

I suggest to the Executive—and I think that it would agree—that in extreme cases, in which the assault is serious, the accused should be prosecuted on indictment, which is a straightforward solution. Of course, in February 2003, the Lord Advocate issued a guidance note to procurators fiscal that highlighted the extent of the Parliament's concerns and advised fiscals that the matter should be taken much more seriously and that they should consider very carefully in which court such incidents should be prosecuted.

There is not all that much more that the Executive needs to do, but what it is doing in the bill will create a legal quagmire that will result in hundreds of appeals. At the end of the day, the section of society that we are all anxious to protect will be no better off. I say in all seriousness to the

minister—I am not making a political point—that he must re-examine the bill. If he allows this mishmash to be passed, it will have consequences, which will include bringing the law into disrepute, to the point of being a laughing stock.

16:45

Mr Stewart Maxwell (West of Scotland) (SNP):

I welcome the intention behind the bill. I hope that we all support the idea that we should protect our emergency workers in all circumstances and not just in emergency circumstances. Many members who have spoken today also spoke in the debate back in January, when we all welcomed the intention to protect emergency workers.

I commend my colleagues on the Justice 1 Committee. They must have thought that they had it easy when they received a small four-page bill, but it ended up as a wrestling match. I am glad that the wrestling match was not with one another but with the bill, the explanatory notes and the policy memorandum, which were not up to the job and left the committee in great difficulty throughout the process.

Many members have talked about protecting emergency workers. That is all well and good, but I clarify that the bill is not intended to protect emergency workers in all circumstances; it protects them in emergency circumstances. Understanding that is crucial. Many of the witnesses and the people who gave written evidence failed to understand that fundamental point.

The bill is narrowly drawn. I have great concern that it will not protect emergency workers in the way that we want to and in the way that they believe that it will protect them. The bill is also a bit of a missed opportunity, as the committee believes that it helps only at the margins. The Executive should re-examine the bill and think hard about the comments that we have heard today and which are in the committee's report.

I echo the comments that many members of different parties, including Michael Matheson and Bill Butler, have made about statistics. The committee wrote to the Executive and to the minister several times. I and others, I am sure, also asked the minister in his evidence session about the lack of information on the number of attacks on emergency workers in emergency circumstances and the trend in the statistics. I am afraid to say that we never received those figures. We received some information, which was about the number of attacks on various groups of workers, such as doctors and firefighters, but it was incomplete and did not concern attacks on emergency workers in emergency circumstances.

The lack of statistical information to back up the bill's policy intention is a serious flaw.

That is indicative of the Executive's poor thinking and lack of logic about, and sloppy attitude to, the bill. The committee was provided with no statistical evidence to support the bill's rationale. I agree that many attacks are occurring and that even the evidence that we received seems to show that the number of attacks on emergency workers is rising, but we do not know whether those attacks are on emergency workers in emergency circumstances.

The policy memorandum did not deal properly with the alternatives, several of which Bill Aitken mentioned a moment ago. One is the common law. The Lord Advocate issued strengthened guidance only a few months ago and we have not seen whether that will deal with the problem. Several witnesses talked about plea bargaining in such aggravated cases. Implementing section 13 of the Crime and Punishment (Scotland) Act 1997 is a possibility, as is implementing the summary justice review recommendation that sentencing powers should be increased to 12 months and a £20,000 fine. Many of the arguments for those proposals are valid and the Executive did not explain properly the reasons why it rejected them and decided to go down the legislative route.

The committee was far from convinced by the arguments of the Executive and the minister about the bill. That is clear from the debate, and that nearly led us to reject the bill at stage 1, not because we do not want to support emergency workers, but because the bill's ineptitude and the lack of background information, statistical evidence and a rationale were unacceptable.

I will not go through all the different categories in the bill. We have heard many arguments about who should and should not be included, but I want to highlight a couple of groups of people. I agree with what Jackie Baillie said about the Loch Lomond Rescue Boat and other inland or estuary rescue boats that basically do the same job. I think that there is a rescue boat on the Black Isle at the northern edge of the Kessock bridge.

Prison officers are mentioned in paragraph 145 of the committee's report. I certainly agreed with the committee's recommendation that prison officers do not meet the criteria that are laid down in the report, but I have changed my mind on the matter. I have done so because I accept the minister's argument and in particular what was said in discussions with representatives of prison officers. I think that there is a mistake in the paragraph, which states that prison staff call the police when they lose control. Prison officers say that they call the police, but the police do no more than patrol the prison's perimeter. It is the prison officers who deal with situations inside the prison, which puts a different light on such situations.

Perhaps the committee was not fully aware of that when the paragraph was written.

Margaret Mitchell: Does the member recall that when we were taking evidence, we heard that one of the prison officers' grievances was that existing law was not being used? There was existing law to protect them, but charges were being dropped or plea bargained away. If existing law were used, perhaps we would not need such legislation.

Mr Maxwell: A number of witnesses said that, and I questioned a number of them about it. I accept much of the logic of the member's argument, but there is much more that we can do with the legislation. As it stands, the bill does not do the job.

The other point that I want to make is that special constables are included, but community wardens are not, which is perhaps a flaw in the bill.

When emergency workers and emergency circumstances are put together, things will be difficult to prove in many different areas. I do not understand the difference between attacks on emergency workers in emergency circumstances and attacks on them in non-emergency circumstances. For example, will the minister explain whether a false alarm or a malicious call will be covered by the bill? Such things do not seem to be covered in sections 1(4) and 1(5), as they are not emergency circumstances. Perhaps the minister could explain further.

A possible solution to the problems is to simplify the whole process and the bill. One of the greatest fundamental difficulties with the bill lies in the bringing together of emergency workers and emergency circumstances. Emergency workers can be called on to deal with emergency circumstances at any time. Therefore, it would be much more sensible to concentrate on on-duty situations, as the Police (Scotland) Act 1967 does, so that if doctors, nurses, paramedics, firefighters and others are on duty, they will receive protection for being emergency workers at all times and not only in emergency circumstances. It does not seem right that if a brick goes through the front window of a fire engine when firefighters are on call to an emergency circumstance, the firefighters will be protected by the legislation, but if a brick goes through that window when they happen to be out checking hydrants, for example, they will not be protected by it.

Tommy Sheridan: Will the member take an intervention?

Mr Maxwell: No—I am in my final minute.

The Deputy Presiding Officer: You must finish now, Mr Maxwell.

Mr Maxwell: What I suggest would be much simpler to prove and for everybody to understand.

In conclusion, I think that it is right to support the general principles of the bill, but only so that it can be seriously amended at stage 2.

The Deputy Presiding Officer: There is quite a lot of noise in the chamber. Andy Kerr has six minutes.

16:53

Mr Kerr: Six minutes is a short period in which to address the substantial issues that have been raised this afternoon. I thank all members for their contributions.

I add my name to the list of people who said, "Here's a short bill that looks simple." I thought that I would be happy to take the committee, deal with the whole parliamentary process and not even use my deputy for the bill. However, the bill has proved somewhat more interesting than I expected it to be.

The afternoon has been interesting. Mr Sheridan made a joke—which was groundbreaking in many ways—and Mr Stevenson added another job to that long list of jobs that he had in the past that are relevant to our discussions in the Parliament. Paul Martin brought us back to the origins of our work, and I want to talk about that.

As I said at the start of today's debate, extending the definition would risk diluting the effects of the bill. Our clear intention is that the purpose of the bill should be very specific, in that it should protect emergency workers in emergency situations. Members have rightly raised some important issues to do with mental health officers and those who deal with child protection, and I have agreed to reflect on those matters at later stages. Mr Maxwell has dealt with the point about whether prison officers are included, although we can further discuss the committee's view at later stages.

On whether workers such as the inland water rescue teams that Jackie Baillie mentioned should be included within the bill, I think that we should not forget that we are not cutting off the avenues that exist under common law. The common law will continue to protect workers and it will continue to be upheld in the work that the Lord Advocate does and will continue to do. The bill is about specific situations for which we seek to move our statute law forward by providing additional cover.

I think that the point about Reliance officers has already been clarified.

Karen Gillon mentioned the state hospital at Carstairs. I understand that doctors, nurses and security staff who are called to respond to emergency circumstances there will be protected by the bill. Doctors and nurses will be covered

under section 1 and security staff who act under the direction of doctors will be assisting persons, so they will be covered by the bill. I am happy to address those matters at stage 2, but that is my indicative response to Karen Gillon's point.

Some speakers throughout the afternoon talked about a lack of evidence, but everybody else has acknowledged that attacks on emergency workers are happening more and more in our society and that we need to deal with them. The Executive is trying to deal with the situation that we all know is out there. Clear action is required. In every discussion that I have had with trade unions and professional bodies, I have been told that the problem is bigger than people would think. It happens all over Scotland and we need to deal with it. However, despite the fact that we all agree on that, we have been criticised for lacking evidence on the problem. Arguably, the anecdotal evidence is clear, but the bill will ensure that we get further evidence. We need to encourage people to come forward by using the bill in a positive way. That will ensure that we develop our evidence base.

Members have made some useful contributions, but we must now seek to ensure that the bill makes a difference. People have said that we are showboating and that the bill is not worth having, but I argue that the job now—at stage 2—is to make the bill work. Members can rest assured that, as the Executive minister responsible, I want to make the bill work and I will work with the committee to ensure that we get this right.

Just because we disagree, that does not mean to say that the Executive is not right on these matters. I am not a barrack-room lawyer—or any sort of lawyer—but I take advice from Scotland's most senior law officer. On occasions, that should count.

On the financial memorandum, members said that it cannot be right that the bill will not create more costs. Actually, the bill will add to the suite of legislation that is available. On occasions, the common law and the bill will replace each other, so additional costs are not an issue—*[Interruption.]*

The Presiding Officer (Mr George Reid): Order. There is far too much buzz. Members must keep their conversations down.

Mr Kerr: The point that Paul Martin raised was absolutely right. I know that my daughters' school has received visits from police and has made trips to the local fire station to learn more about the respect that is owed to emergency service workers, but we need more of that. Our wider package of such measures was welcomed by many members.

I welcome what Mr MacAskill said in his intervention on Mr Aitken. He is absolutely right

that we should let the lawyers sort it out and let the justice system resolve the doubts that have been expressed. That is exactly what the law does. That will lead to increased definition and a further refining of the bill as it is rolled out. He asked me to learn from and reflect on the issues at stage 2, and I assure him that I will do that.

I would rather not finish on this point, but the one note of discord in the whole afternoon came not from the Tories, who took a principled position against the bill, but from Mr Matheson, who accused me of being disrespectful to the Parliament and to its committees for trying to do what we think is right to protect emergency service workers. We are doing our best to make this legislation work. Indeed, that is what I will continue to do. As a result, I think that Mr Matheson's comments were out of order in this debate.

I wanted to respond to many other points, and I will try and do so at stage 2. I will happily spend more time with Conservative members to explain more fully our intentions behind the bill. I think that it is right and worth fighting for, because it will make a difference.

Point of Order

17:00

Mr Kenny MacAskill (Lothians) (SNP): On a point of order, Presiding Officer. I think that you have already been given intimation of this point of order, which relates specifically to the Education Maintenance Allowances (Scotland) Amendment Regulations 2004 and more generally to how members go about annulling a negative instrument.

Earlier this week, I was advised that these regulations could exclude refugees, asylum seekers and children without parents from being able to claim benefits. Clearly, I will pursue that matter in another forum. The difficulty that I want to highlight arose when I sought to lodge an annulment motion to the regulations. At this point, I should say that I am grateful to the Deputy First Minister for discussing the matter with me and acknowledge the difficulties that he is facing. However, I was advised that, at this particular juncture, I would be required to lodge the motion of annulment by 4 pm, which would have meant that the Enterprise and Culture Committee would have had to convene with a quorum tomorrow to deal with the matter.

Although I understand that we need timescales, I ask you to reflect on the suggestion that, if a member lodges a motion of annulment, the clock should stop ticking. Instead of having to convene a committee outwith the normal timeframe, we could simply place the matter on the committee's agenda to be dealt with at the next appropriate time. I have not lodged a motion of annulment, because the practicalities of convening the committee tomorrow militate against that course of action. However, other members will no doubt face the same problem at some point. As a result, can we seek a review of the procedures for annulling negative instruments?

The Presiding Officer (Mr George Reid): An inquiry into subordinate legislation is currently in progress and it might be appropriate to raise the matter there.

That said, the procedures are quite clear. When an instrument of this kind is laid, the Parliament has 40 days to annul it, if it so resolves. In this case, the instrument was laid on 24 June to become effective on 2 October. Any member has had the opportunity to make their concerns known to the Enterprise and Culture Committee. After considering the instrument at its meeting on 21 September, the committee agreed unanimously to make no recommendation on it. I am therefore satisfied that due process has been followed and that sufficient opportunities have been made available for concerns to be raised.

Mr Wallace, do you wish to add anything to that?

The Deputy First Minister and Minister for Enterprise and Lifelong Learning (Mr Jim Wallace): No. Mr MacAskill has outlined the substance of the matter and you have dealt with the procedural aspects.

Business Motion

17:03

The Presiding Officer (Mr George Reid): The next item of business is consideration of business motion S2M-1776, in the name of Patricia Ferguson, on behalf of the Parliamentary Bureau, setting out a timetable for legislation.

Motion moved,

That the Parliament agrees that—

(a) consideration of the Breastfeeding etc. (Scotland) Bill at Stage 2 be completed by 5 November 2004;

(b) the Justice 1 Committee reports to the Justice 2 Committee by 6 October 2004 on the Title Conditions (Scotland) Act 2003 (Conservation Bodies) Amendment Order 2004 (SSI 2004/400); and

(c) the Justice 2 Committee reports to the Justice 1 Committee by 6 October 2004 on the draft Maximum Number of Judges (Scotland) Order 2004.—[*Patricia Ferguson.*]

Motion agreed to.

Parliamentary Bureau Motions

17:03

The Presiding Officer (Mr George Reid): The next item of business is consideration of 15 Parliamentary Bureau motions. I ask Patricia Ferguson to move motions S2M-1772, S2M-1790 to S2M-1801 inclusive, S2M-1803 and S2M-1805 on the membership and substitute membership of committees.

Motions moved,

That the Parliament agrees that Richard Lochhead be appointed to replace Roseanna Cunningham on the Environment and Rural Development Committee.

That the Parliament agrees that Mr John Swinney be appointed to replace Mr Andrew Welsh as the Scottish National Party substitute on the Audit Committee.

That the Parliament agrees that Ms Sandra White be appointed to replace Shona Robison as the Scottish National Party substitute on the Communities Committee.

That the Parliament agrees that Michael Matheson be appointed to replace Tricia Marwick as the Scottish National Party substitute on the Education Committee.

That the Parliament agrees that Linda Fabiani be appointed to replace Tricia Marwick as the Scottish National Party substitute on the Equal Opportunities Committee.

That the Parliament agrees that Richard Lochhead be appointed to replace Nicola Sturgeon as the Scottish National Party substitute on the European and External Relations Committee.

That the Parliament agrees that Alex Neil be appointed to replace Mr Adam Ingram as the Scottish National Party substitute on the Finance Committee.

That the Parliament agrees that Mr Stewart Maxwell be appointed to replace Ms Sandra White as the Scottish National Party substitute on the Health Committee.

That the Parliament agrees that Brian Adam be appointed to replace Roseanna Cunningham as the Scottish National Party substitute on the Justice 1 Committee.

That the Parliament agrees that Mr Kenny MacAskill be appointed to replace Michael Matheson as the Scottish National Party substitute on the Justice 2 Committee.

That the Parliament agrees that Mr Bruce McFee be appointed to replace Mr Kenny MacAskill as the Scottish National Party substitute on the Local Government and Transport Committee.

That the Parliament agrees that Tricia Marwick be appointed to replace Linda Fabiani as the Scottish National Party substitute on the Procedures Committee.

That the Parliament agrees that Stewart Stevenson be appointed to replace Bruce Crawford as the Scottish National Party substitute on the Subordinate Legislation Committee.

That the Parliament agrees that Rob Gibson be appointed to replace Michael Matheson on the Edinburgh Tram (Line One) Bill Committee.

That the Parliament agrees that Helen Eadie be appointed to replace Dr Sylvia Jackson on the Edinburgh Tram (Line One) Bill Committee.—[*Patricia Ferguson.*]

The Presiding Officer: The questions on the motions will be put at decision time.

Decision Time

17:04

The Presiding Officer (Mr George Reid):

There are 20 questions to be put as a result of today's business. I remind members that, in relation to this morning's debate on health issues, if the amendment in the name of Malcolm Chisholm is agreed to, the amendments in the names of Shona Robison and Carolyn Leckie fall.

The first question is, that amendment S2M-1784.3, in the name of Malcolm Chisholm, which seeks to amend motion S2M-1784, in the name of David Davidson, on the centralisation of health services, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 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)
 Finnie, Ross (West of Scotland) (LD)
 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, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 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)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 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)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (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)
 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)
 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)
 Harvie, Patrick (Glasgow) (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)
 MacDonald, Margo (Lothians) (Ind)
 Martin, Campbell (West of Scotland) (Ind)
 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)
 Morgan, Alasdair (South of Scotland) (SNP)
 Muldoon, Bristow (Livingston) (Lab)
 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)
 Sheridan, Tommy (Glasgow) (SSP)
 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)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

The Presiding Officer: The result of the division is: For 66, Against 59, Abstentions 0.

Amendment agreed to.

The Presiding Officer: The next question is, that motion S2M-1784, in the name of David Davidson, on the centralising of health services, as amended, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 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)
 Finnie, Ross (West of Scotland) (LD)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marilyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 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)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)

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)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (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)
 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)
 Fabiani, Linda (Central Scotland) (SNP)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 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)
 Harvie, Patrick (Glasgow) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 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)
 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)
 Morgan, Alasdair (South of Scotland) (SNP)
 Muldoon, Bristow (Livingston) (Lab)
 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)

Sheridan, Tommy (Glasgow) (SSP)
 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)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

ABSTENTIONS

Fox, Colin (Lothians) (SSP)
 Kane, Rosie (Glasgow) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)
 MacDonald, Margo (Lothians) (Ind)
 Martin, Campbell (West of Scotland) (Ind)

The Presiding Officer: The result of the division is: For 66, Against 54, Abstentions 5.

Motion, as amended, agreed to.

Resolved,

That the Parliament acknowledges public concern about the extent of proposed centralisation of health services across Scotland; believes that improvement is essential to ensure that all patients have access to both high-quality specialist services and appropriate medical care delivered locally; recognises that NHS boards must pursue clinical strategies which demonstrate regional planning; notes that boundaries are irrelevant to patients; welcomes the determination of the Scottish Executive to develop the planning of healthcare services across NHS board boundaries, within the context of a national strategy; notes the work of the Parliament's Health Committee on this issue; welcomes the decision of the Minister for Health and Community Care to make no decision on new proposals for service change that come before him until such times as the Expert Advisory Group chaired by Professor David Kerr has reported; notes that this provides an opportunity to debate what services are best provided locally, regionally and nationally and that the presumption in the interim is that services will be maintained unless there are genuine issues of clinical safety, agreed by the Minister; affirms the Executive policy outlined in *Partnership for Care* that the patient must be at the centre of the process, and supports a patient-centred policy that acknowledges safety and quality and that also ensures that as many services as possible are provided locally.

The Presiding Officer: The next question is, that motion S2M-1079, in the name of Andy Kerr, on the general principles of the Emergency Workers (Scotland) Bill, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 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)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 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)
 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)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Fox, Colin (Lothians) (SSP)
 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)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kane, Rosie (Glasgow) (SSP)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Leckie, Carolyn (Central Scotland) (SSP)
 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)
 MacDonald, Margo (Lothians) (Ind)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Campbell (West of Scotland) (Ind)
 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)
 May, Christine (Central Fife) (Lab)
 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)
 Morgan, Alasdair (South of Scotland) (SNP)
 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)
 Pringle, Mike (Edinburgh South) (LD)

Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (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)
 Sheridan, Tommy (Glasgow) (SSP)
 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)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

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)
 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)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Swinburne, John (Central Scotland) (SSCUP)
 Tosh, Murray (West of Scotland) (Con)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)

The Presiding Officer: The result of the division is: For 105, Against 20, Abstentions 0.

Motion agreed to.

That the Parliament agrees to the general principles of the Emergency Workers (Scotland) Bill.

The Presiding Officer: The next question is, that motion S2M-1772, in the name of Patricia Ferguson, on membership of a committee, be agreed to.

Motion agreed to.

That the Parliament agrees that Richard Lochhead be appointed to replace Roseanna Cunningham on the Environment and Rural Development Committee.

The Presiding Officer: Unless members object, I propose to put a single question on motions S2M-1790 to S2M-1801, on committee substitutes.

There being no objection, the next question is, that motions S2M-1790 to S2M-1801 inclusive, in the name of Patricia Ferguson, on committee substitutes, be agreed to.

Motions agreed to.

That the Parliament agrees that Mr John Swinney be appointed to replace Mr Andrew Welsh as the Scottish National Party substitute on the Audit Committee.

That the Parliament agrees that Ms Sandra White be appointed to replace Shona Robison as the Scottish National Party substitute on the Communities Committee.

That the Parliament agrees that Michael Matheson be appointed to replace Tricia Marwick as the Scottish National Party substitute on the Education Committee.

That the Parliament agrees that Linda Fabiani be appointed to replace Tricia Marwick as the Scottish National Party substitute on the Equal Opportunities Committee.

That the Parliament agrees that Richard Lochhead be appointed to replace Nicola Sturgeon as the Scottish National Party substitute on the European and External Relations Committee.

That the Parliament agrees that Alex Neil be appointed to replace Mr Adam Ingram as the Scottish National Party substitute on the Finance Committee.

That the Parliament agrees that Mr Stewart Maxwell be appointed to replace Ms Sandra White as the Scottish National Party substitute on the Health Committee.

That the Parliament agrees that Brian Adam be appointed to replace Roseanna Cunningham as the Scottish National Party substitute on the Justice 1 Committee.

That the Parliament agrees that Mr Kenny MacAskill be appointed to replace Michael Matheson as the Scottish National Party substitute on the Justice 2 Committee.

That the Parliament agrees that Mr Bruce McFee be appointed to replace Mr Kenny MacAskill as the Scottish National Party substitute on the Local Government and Transport Committee.

That the Parliament agrees that Tricia Marwick be appointed to replace Linda Fabiani as the Scottish National Party substitute on the Procedures Committee.

That the Parliament agrees that Stewart Stevenson be appointed to replace Bruce Crawford as the Scottish National Party substitute on the Subordinate Legislation Committee.

The Presiding Officer: The next question is, that motion S2M-1803, in the name of Patricia Ferguson, on membership of a committee, be agreed to.

Motion agreed to.

That the Parliament agrees that Rob Gibson be appointed to replace Michael Matheson on the Edinburgh Tram (Line One) Bill Committee.

The Presiding Officer: The final question is, that motion S2M-1805, in the name of Patricia Ferguson, on membership of a committee, be agreed to.

Motion agreed to.

That the Parliament agrees that Helen Eadie be appointed to replace Dr Sylvia Jackson on the Edinburgh Tram (Line One) Bill Committee.

Gender Pay Gap

The Deputy Presiding Officer (Murray Tosh):

The final item of business today is a members' business debate on motion S2M-1410, in the name of Sandra White, on the increasing gender pay gap. The debate will be concluded without any question being put.

Motion debated,

That the Parliament notes with concern the result of research by PayFinder.com which indicates that the gender pay gap is getting wider, that it has increased by 5 per cent in the last year and that the gap is now 29 per cent in Scotland and believes that this is an unacceptable situation and that the Scottish Executive has a duty to investigate the matter and bring forward proposals to close the gap.

The Deputy Presiding Officer: I ask members who are leaving the chamber to do so with no further conversation.

17:10

Ms Sandra White (Glasgow) (SNP): Perhaps we do not just need equality of pay, but equality of manners, although that is for another debate on another day.

I am pleased to have secured a debate on my motion and I hope that the Deputy Minister for Communities will be able in her reply to assure to women in Scotland that the Government and Parliament will not tolerate inequalities of any kind, especially inequalities in earnings that are based solely on one's gender. For far too long in Scotland, in the United Kingdom as a whole and in other places throughout the world, women have been discriminated against just because of their gender. That situation cannot be tolerated and must be stopped as soon as possible.

I am sure that all members who are present know that the Equal Pay Act was passed in 1970. Even so, 34 years later most women do not have equality. Although the legislation requires parity of payment, that is still not the case. Many firms have been informed of, and warned about, the discrimination legislation, but they do not comply with it.

PayFinder.com contacted me about the gender pay gap. It produced a paper that tells us that the gender pay gap now stands at 29 per cent. That compares with the UK average of 24 per cent, which is still bad. Given everything that has happened, it is ridiculous that the pay gap is wider than it was when the Equal Pay Act 1970 was passed.

We know that women make up the majority of workers in low-pay, low-value jobs and, because most women are the principal carers in the home, they take on part-time jobs, which are especially

badly paid. Sometimes working part time is the only option that such women have. That, coupled with inequality of pay, means that they get the sharp end of the stick. The situation will change for the better when the Government implements better education and child care. I hope that the Government will take over the provision of child care; that would be a good thing.

What can we say to women who have been through further education, who have good degrees, who have child care and who have a good job but who, at the end of the week, get less money than their male counterparts simply because they are women? Their gender counts against them. I believe that it is incumbent on the Executive to set a good example at all levels. I say in my motion that we should do something about the situation. The Executive should ensure that equal treatment is the norm throughout the Scottish Government. I ask it to instigate an audit of all the employees in the Government, regardless of which job they carry out, to find out whether fairness and equality are prominent.

I know that work has already been carried out on equal pay. Close the gap, a three-year campaign that was launched in 2001, received European funding. It began with the specific aims of enabling employees to carry out audits—as I have just suggested—of encouraging the development of action plans, of engaging unions in making equal pay a priority and, most important, of empowering women to challenge pay discrimination.

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): I agree entirely with the member's comments. One of the difficulties is in obtaining reliable data for many individual companies. In meetings in my constituency with the Low Pay Commission and the Scottish Low Pay Unit, I have discussed the reliability of data and the small amount of sample data that we have. Audits in the private sector are welcome, as they will give us more reliable data, which will allow us to campaign harder to get something done about the situation.

Ms White: That is the gist of my motion. As I said, there have been initiatives such as close the gap, but only a small number of audits have been carried out. If the matter is progressed through legislation, there will be more audits, which I hope will mean that there will be shrinkage in inequality. The legislators must do that—we must go forward.

As I said, the pay gap is even wider, even though surveys have been carried out. A 61,000 person survey was carried out by the University of Aberdeen and was prompted, believe it or not, by women in the media who are concerned about what is happening to them. Professor Rita Marcella of Aberdeen business school said of women in the media that

"evidence suggests that they are still failing to achieve equity with men in terms of entry, retention and progression."

Perhaps the media in the Scottish Parliament, and the women in particular, should do their own audit so that we can see what they come up with.

Alyson Thomson of the Equal Opportunities Commission in Scotland has said that the findings that have come out of the various surveys are not surprising and that still too many women are being treated as second-class citizens—that is straightforward discrimination. Basically, they are being paid less because they are women.

A report to the Justice 1 Committee by the National Association of Official Prison Visitors states that women prisoners get lower wages than male prisoners. How is that for discrimination? Even Gordon Brown, in his speech to the Brighton Labour Party conference, criticised 50 years of the welfare state for failing in respect of equal pay for women. Patricia Hewitt, another Labour politician, set up a commission on women in work to deal with equality and pay, and she says that women are rightly demanding a better deal at work. At Westminster and here in this Parliament, we seem to have cross-party support for some form of audit and some form of legislation to stop the inequalities that women face at the moment.

I mentioned pilot schemes such as the close the gap scheme. The Minister for Communities, Margaret Curran, set up a new equality group to report on putting ideas into practice. Unfortunately, that has not happened yet, and we must make it a requirement that it does happen. It is fine to commission reports, but we need action. Women need action and they need equality. We cannot, without taking any action, go on writing reports and asking women to fill in questionnaires about how unhappy they are or about what their work time is like. That is why I say that Parliament must make it a requirement to prioritise equal pay.

As Jeremy Purvis said—I am sure that other members will agree—we must set up audits to ensure that each company conforms to legislation. We can no longer leave it voluntary; we must initiate a legislative process. Only by being bold and forward thinking in tackling inequality will we be able to put an end to the deliberate discrimination that faces many working women. I hope that the minister will take on board what I have said and perhaps come back with some answers.

Thank you, Presiding Officer, for giving me this time to speak. I also thank the members who have stayed behind to speak in the debate.

The Deputy Presiding Officer: Having taken note of who is still writing, I call Carolyn Leckie first, to be followed by Nora Radcliffe.

17:18

Carolyn Leckie (Central Scotland) (SSP): I am awfully glad that I stopped writing. I just have notes.

I thank Sandra White for securing this evening's debate. I am sure that she knows that I have pursued the matter of equal pay vigorously—I have not counted the number of motions and questions that I have lodged on equal pay.

Equal pay is definitely an issue that is close to my heart and it is one that was rekindled during the nursery nurses' dispute, which involved 14 weeks of all-out action. It is astonishing that throughout that dispute we heard not a dickie bird from the Convention of Scottish Local Authorities and not a dickie bird from the Executive about the fact that the Equal Opportunities Commission was already meeting, and had been trying to meet, COSLA and the Executive to persuade them that there was an equal pay issue and to ask them to intervene and do something about it. Unfortunately, that did not happen.

Not only did COSLA and the Executive fail to meet their moral obligations, but they did not meet their legal obligations under equal pay legislation, because that legislation puts an obligation on the Executive, on Parliament and on devolved bodies to do all that they can to eliminate unequal pay and to achieve equal pay. The Executive stands today guilty of having not done that. It is shameful that the nursery nurses were on all-out indefinite strike for more than 14 weeks and we heard not a whisper from the Executive.

I shall move on to the more general issues, and I shall use the examples of local government and the national health service to show the differences between aspiration and obligation and between talk and action.

Local government is supposed to have been implementing job evaluation free from gender barriers for five years now, but it has not. The Equal Opportunities Commission has expressed concerns that, even if the job evaluation programme were implemented, it would not be satisfied that the programme would meet its obligation to be free from gender bias. What is the Executive doing about that?

COSLA's reaction to the budget announcement yesterday was that it was a "standstill" budget, so I am concerned about how equal pay can possibly be addressed in local government. As Sandra White rightly said, the gender pay gap is now approaching 30 per cent and the gap is 50 per cent for part-time workers. How on earth can a standstill budget address that gap?

The NHS agenda for change is supposed to address inequalities in the NHS, but the gender

pay gap is at 30 per cent, and is at 50 per cent for part-time workers, and the NHS work force is predominantly female. When Gordon Brown entered agenda for change negotiations, he anticipated that it would save the NHS money. How on earth can it address the problem of unequal pay?

Those negotiations have moved on and health boards and the Executive are waking up to the fact that agenda for change might cost them money. However, I say to Mary Mulligan that there are glaring failings in the agenda—unless she has good news for me today.

Some sort of solution for estate workers, who are predominantly men, has been reached; recruitment and retention premiums of up to 30 per cent have been offered in taking cognisance of that group of workers, who were set to lose under agenda for change. However, the administration and clerical workers, who are predominantly female, have as yet no such assurances and are set to lose, rather than gain, pay. How can agenda for change possibly address equal pay if estate workers get 30 per cent recruitment and retention premiums and admin and clerical workers are sitting with nothing?

I ask the Executive what involvement have Executive departments that have responsibility for equal pay and women had in the agenda for change negotiations. Other than the Health Department, who is involved and can the minister offer me any reassurances?

17:22

Nora Radcliffe (Gordon) (LD): I commend Sandra White for securing the debate, following the recent statistics from the PayFinder.com survey.

Even if one consults the annual “New Earnings Survey”, which is regarded as providing the most authoritative statistics on full-time paid employment, a 19 per cent gender pay gap is identified. Given that the Equal Pay Act 1970 has been in force since 1975, it is obvious that the measures that have been taken so far have not delivered the goods.

The most obvious and blatant direct pay discrimination has largely been dealt with, but what is left is much more subtle and intractable. It is rooted in differences in employment patterns that reflect differences in equality of opportunity. If we are to get equal pay, we will have to delve right down to the roots of those problems. We have to examine segregation in the labour market and the impact of the fact that women are usually primary carers.

We have to remember that the gender pay gap does not stop when work stops. When we consider female pensioners, the provision gap between men and women of pension age is even more glaringly inequitable. Given that women tend to live longer than men, they often live in abject poverty for much longer, which is fairly disgraceful in the 21st century.

There is no single simple answer to the problem; we have to tackle it in a range of ways. At Westminster level, Liberal Democrats would like to see a rebalancing of income tax to take lower-paid people out of income taxation. Those people are usually women. We would like to restore the link between pensions and average earnings—beginning with the over-75s, who are the most vulnerable group—as a start to tying pensions to average earnings for everyone. We would also like to integrate benefits and tax, so that we do not get that dreadful gap in the middle where a hotchpotch of benefits legislation and tax legislation do not marry and poverty gaps and anomalies arise.

One of the founding principles of the Scottish Parliament is equality. A lot of good work has been done in the five years that we have been here. We have an Equal Opportunities Committee and we have an equalities unit. We have tried to mainstream equality and we have tried to gender-proof our budgets. That we have been trying for five years to do those things and that it has been difficult show how endemic the problem is.

There is a root-and-branch job to be done in changing perceptions and assumptions, and not just those of the male section of the community, but of the female section of the community. People make assumptions about certain jobs and roles and their value, which we have to challenge at every opportunity. If we could raise the status of parenting and of caring and if we could ensure that those contributions to society, which are made largely by women, were properly recognised and funded, we would do a huge amount to address inequality and the gender pay gap.

I have no answers. All I have are a lot of questions and suggestions. We must all push ahead on the fronts that I have mentioned to try to tip the balance of a deeply rooted and intractable problem.

17:27

Shiona Baird (North East Scotland) (Green): I sincerely congratulate Sandra White on securing this debate, but the subject is much more important than its timing as a members’ business debate on a Thursday evening would suggest. I whole-heartedly agree with the motion and emphasise its points that the gender pay gap figures are completely unacceptable,

"and that the Scottish Executive has a duty to investigate the matter and"—

more important—

"bring forward proposals to close the gap."

I am conscious that hidden behind the figures is the fact that 43 per cent of all working women earn less than £5 per hour. Half of all women in full-time jobs and 80 per cent of those in part-time work earn well below the Council of Europe's decency threshold of £6.31 an hour. Work for those women is often based on the four Cs. We have such phrases for all sorts of things, such as the four Rs for zero waste. Now we have the four Cs of cleaning, caring, catering and cash register. I would add a fifth C: call centres. Those are drudgery jobs, which are mostly seen as women's work and so are undervalued and therefore underpaid.

I am conscious that in this Parliament equality of opportunity is one of our founding principles, but surely one vital part of that aspiration is the need to value each one of us and the contribution that we make to society. Does the motion indicate that we have a society that values women? The five Cs are vital for the maintenance of the fabric of our society. We need those jobs to be done so, at the very least, if we say that and make a clear statement that, as a society, we value such work, we will go some way to ensuring that there is more pay equality.

We need equal pay for work of equal value. Within that principle, we need to examine the strategies by which women are devalued in part-time contractual agreements. In many jobs the hourly rate may be high enough, but the terms of the contract mean that no sick or holiday pay is provided, and contracts can be ended with a week's notice. How can that be said to value anyone's work, whether male or female?

This week I received a copy of a report from the Equal Opportunities Commission, entitled "Tip of the iceberg: Interim report of the EOC's investigation into discrimination against new and expectant mothers in the workplace". I quote a telling sentence from the report:

"We all need the next generation to be born and to thrive. We rely on the workforce of the future for our prosperity and welfare, including our pensions."

Nora Radcliffe made a valid point about pensions.

Legislation is in place to protect pregnant women at work, but members will recall the United Kingdom Independence Party member of the European Parliament who claimed that many small businesses would not employ young women, because they might become pregnant. His statement demonstrates that although legislation can help, it cannot always change attitudes. The

Equal Pay Act was passed in 1970. How many more debates will we have before the role of women in society is truly valued and appropriately rewarded?

17:30

Donald Gorrie (Central Scotland) (LD): It is important that debates on particular subjects are not left to the people whom we might classify as the beneficiaries of the subject, so even an uninspired male like me should be able to come along and indicate solidarity with our sisters who are rightly concerned—

Carolyn Leckie: Will the member give way?

Donald Gorrie: Yes.

Carolyn Leckie: I thank the member for giving way, albeit that he did so reluctantly. Although we have about 50 per cent representation by women in the Scottish Parliament, today's debate is one of the few in which the vast majority of contributors will be women. Does not that represent part of the problem?

Donald Gorrie: That is what I was trying to say, in my confused way.

Attitudes present a problem. Nora Radcliffe and others dealt with many of the practicalities very well. There is still evidence that women who do the same work as men do not receive as much pay. That is less of a problem than it used to be, but a glass ceiling persists and attitudes continue to prevent women from progressing in their professions and businesses as well as they should do. The problem is not universal and in some cases attitudes are more positive and women progress well, but there is still a huge residual amount of male chauvinism, at which we must keep nibbling away if we are to help women to get their fair share of promotions and better jobs.

We must also work out how to make more jobs more user friendly. Nurses often have a point when they say that there is often no flexibility in the way in which health care operates, which can be hostile to women nurses with families. We must be much more flexible and accommodating to women, who, often, continue to take on the principal share of the family responsibilities.

We must also recognise the importance of the low-paid jobs that women often do. There is a point about the failure to treat nursery nurses properly. The Executive could take practical measures. If hospitals were cleaned properly and cleaners were paid properly, the Executive would save the huge amount of money that is spent on tackling the funny bugs that people get and provide reasonably paid jobs for women and men. The Executive should show an example and ensure that the people whom we employ in low-

paid jobs, who are often women, are better paid and that working arrangements are sufficiently flexible to enable them to work in a sensible fashion.

Nora Radcliffe talked about pensions. Women live longer—they are tougher than we feeble males are—and need more money. Older pensioners need more.

I have made my feeble contribution, so I will sit down.

17:34

Elaine Smith (Coatbridge and Chryston) (Lab): How will I follow that?

I congratulate Sandra White on securing tonight's debate. I read the document, "Improving the position of women in Scotland: an agenda for action", which was produced by the strategic group on women that Margaret Curran set up last year. I noted in that document that Joan Stringer refers to the famous observation of the Irish author, Rebecca West, which she made in 1913 and which I think is worth quoting in the context of the debate, particularly given what has been said so far. She said:

"I have never been able to find out precisely what feminism is; I only know that people call me a feminist whenever I express sentiments that differentiate me from a doormat."

Things have improved somewhat since 1913—at least, I would certainly like to think so. Donald Gorrie touched on the possible underlying reasons for gender inequality, and the Parliament can be proud of the fact that it has debated the subject and its associated consequences many times since its foundation. However, we have not yet achieved equality with men. Sandra White's motion provides one particular example out of many.

There is little doubt that there has been an improved approach towards equality issues in Scotland since 1999. As the gender reporter for the Equal Opportunities Committee, I have met people from groups and organisations over those years who have been supported, encouraged and driven to achieve more by the new opportunities that have been afforded through devolution and by the Executive.

While the Parliament and the Scottish Executive can be commended for taking the issue of equal pay seriously, we must be realistic in recognising that we have yet to make sufficient progress in closing the gap and that much remains to be done.

Linda Fabiani (Central Scotland) (SNP): Does Elaine Smith also recognise that the Parliament does not have the powers truly to promote equalities, because they are a reserved matter?

Elaine Smith: I will come on to that, but of course it is true that equalities are a reserved matter.

According to EOC research, women working full time in Scotland earn an average of £482 less per month than men. Debates such as this are crucial for reminding us that the battle is far from won and that we cannot afford to be complacent about equalities.

As Linda Fabiani said, from a legislative perspective, the matter clearly remains reserved to Westminster. I welcome the fact that the guarantee of a decent income, a rising minimum wage and equal pay between men and women was outlined as a priority by the Prime Minister this week. Sandra White quoted Gordon Brown. I hope that, in the spirit of a members' business debate, she will welcome my referring to what the Prime Minister said, too. The Parliament and the Executive have done much to improve the representation of women in public life but, to answer Linda Fabiani's point, we have a fundamental responsibility to ensure that every little bit of devolved power is utilised by us to help to close the pay gap in Scotland.

I would have liked to have talked about mainstreaming, but I do not have time. I will quickly turn to one of the ways in which the Scottish Executive can assist people in working towards equal pay, which undoubtedly involves an evaluation of those sectors of employment that continue to be undervalued, underpaid and overpopulated by women, as was touched on by Carolyn Leckie. I, too, wish to refer to the nursery nurses. I welcome the commitment that the Executive made earlier this year towards a review of that service, and I look forward to its commencement. Indeed, I would welcome any indication that the minister might be able to give me tonight as to the progress of the Scottish Executive's plans in that regard.

I again congratulate Sandra White. I share her concerns regarding the pay gap in Scotland. I feel that the Executive has taken the issue seriously and that it is aware that we face an uphill struggle. I am not sure whether the worrying statistics warrant a complete step change in the Executive's policy, because I know about the work that it is doing, but I agree that the statistics indicate an unacceptable situation. I welcome any opportunity to discuss possible solutions, and I look forward to the minister's comments.

17:38

Mrs Nanette Milne (North East Scotland) (Con): I was going to comment on the large number of women in the chamber this evening, but Carolyn Leckie pre-empted me. I am not sure

whether she is aware that the Parliament's Equal Opportunities Committee currently consists entirely of women, which is an interesting fact.

I should probably declare an interest, as I have been involved in the agenda setting for the Aberdeen survey that Sandra White mentioned, although I have not received any report or feedback as yet. I congratulate Sandra White on bringing the motion before the Parliament, as it addresses an issue that is clearly important for many women. I say at this point, as I have often said in the past, that I firmly believe in equal opportunities for everyone.

I did not manage to find the relevant paper from PayFinder.com, but I query its finding of a 29 per cent pay gap between men and women. Is it based on pay per hour of work? If so, that is absolutely shameful. However, if the 29 per cent gap is based on total pay, I would be inclined to study it more closely, because there could be reasons for it, given that a lot of women work part time.

Ms White: I can clarify that the figure is per hour of work. I can get Nanette Milne a copy of the paper if she wishes.

Mrs Milne: In that case, I am appalled by the figure.

When I read the motion, I wondered whether it was competent for the Scottish Executive to investigate the issue, given that equal opportunities are reserved to Westminster—I am grateful to Linda Fabiani for keeping me right on that.

I dissent ever so slightly from what has been said. The motion appears to be predicated on the assumption that all women have the ambition to pursue full-time careers, and I am inclined to differ on that point. Many women, and an increasing number of men, do not want to work full time and instead opt for part-time work and smaller earnings in exchange for what they see as a better quality of life for themselves and their children by spending more time at home—if of course they can afford to. Flexibility in working practices allows people to choose their working pattern to suit themselves.

My Conservative colleagues and I are committed to equality in the workplace and believe that women and men should receive equal pay for equal work. However, we do not believe that parents of either sex should be forced into pursuing full-time careers in order to meet prescriptive targets.

Much Executive policy that relates to women has been created by powerful, ambitious and successful career women. Margaret Curran's strategic group on women comprises a university

vice-chancellor, a chief executive of a bank and a secretary of a trade union—hardly typical, even of career women. I know that at least some members of the group are mothers. Indeed, I know one of them quite well and she has done an excellent job of combining motherhood with a highly successful career, but she is far from the norm and I certainly would not have envied her lifestyle when her children were small.

Various reports have shown that women want to be able to choose whether to work. If they choose not to, they want motherhood to be valued and respected. I heartily agree with that, because the drive to have more and more women pursue careers can make non-working mums feel guilty. That is quite wrong, because one of the most rewarding careers of all must be the successful guiding of young children to becoming responsible and happy adults.

The Institute for Fiscal Studies found that 10 per cent of part-time working women were interested in increasing their working hours and only a quarter of non-working women wanted to return to work. Various studies indicate that many women do not really want to work.

My point is that women must be free to choose how they live, even if it means that there is a serious loss to the professions, including mine. Many women opt out of work when their children are young, as I did. That has a major effect on the health service. Fortunately for me, the rate of pay for doctors has always been the same for men and women.

It seems entirely reasonable to ask the Executive to investigate discrepancies in pay between men and women, if it is competent for it to do so, but if the conclusion is that women earn less because of differences in hours and working conditions, that should not automatically be taken as negative.

17:43

Christine Grahame (South of Scotland) (SNP): It really is disgraceful that more than 30 years after the Equal Pay Act 1970 we still talk about women not having equal pay and hear that the gap is, in fact, widening.

I suspect that we have no doormats present in the debate, but we are lucky and we are the exception—many women do not have the advantages that we have.

There are ripple effects of unjust pay throughout. There are gaps between levels of individual poverty among men and women, and in 90 per cent of single-parent families, the woman is the wage earner, so children are also caught in the poverty trap. As Nora Radcliffe said, there is a

knock-on, long-term effect for women pensioners. For women, interrupted work, low pay and the fact that they live longer, rarely have occupational pensions and quite often divorce and so lose rights under their husband's pension payments all mean that, as they hit 60 and apply for a pension, they find that their pension is minimal. Many women who have served a useful life working, bringing up children—I agree that choice is important—or being in and out of work because of family commitments, as has happened to many of us here, are hit by the shock of then finding themselves in poverty.

One in five of Scotland's pensioners is in poverty, and many of them are women who hide the fact that they are in poverty. A visit to some of the charity clothes shops, jumble sales and sales of work will show where the poverty is among our older people. That will happen to young women now as well. There is a huge disadvantage to women.

In addition, the quality of jobs that women are offered is terrible. In factories, many women work on the factory floor while the middle and senior management are made up of men and the occasional woman. That gives the women low self-esteem. They have no access to training and get into a trap, and there is a sense of devaluation of who they are as people. The position for black and ethnic minority women is even worse. The difference is sometimes cultural, but it is also because of the extra hurdles that they have to overcome. Women's low pay is the tip of the iceberg.

I want to offer some solutions to the minister, not all of which are within her portfolio. I would like to see young women in schools made well aware of their position in society and for them to be made the driving force for change, so that the gender gap does not continue through the generations.

Elaine Smith: Given what she says about schools, does Christine Grahame welcome the respect project that is run by the Zero Tolerance Charitable Trust?

Christine Grahame: Absolutely. My father drove all his daughters to say that there should be equal opportunities for women. He has a lot to answer for—there are another four like me, some of whom are slightly worse. It is not good enough that that happened in my family; we must ensure that it happens in society. As a former teacher, I can say that schools can do something to engender a sense of importance and confidence and a positive attitude in young women, so that they do not see their current position as being all that they are worth. I am astonished at what still happens in 2004.

I also think that it is wrong that, when someone has a problem with equal pay, their only remedy is

to go to an employment tribunal. That is a terrifically frightening thing to do and we must have other ways of dealing with the issue. Perhaps the minister can suggest a way in which women who are not being paid properly do not have to go through court procedures.

Finally, what my colleague is looking for is an equal pay audit. That is not a reserved matter but is well within the remit of the Scottish Parliament.

17:47

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): I commend Sandra White for finding time in the Parliament to secure this important debate. In my short remarks, I wish to talk about my constituency.

When the act that we have been discussing was passed—and if we are honest we should acknowledge that we have been debating its failings—the textile industry was the major employer and the major source of income in the Borders. Traditionally, women made up the employees of the industry, working as finishers and waulkers. It was highly skilled employment, but it was low paid, although it provided the predominant source of income for women.

As implementation of the act has progressed, the textile industry has declined; however, there is a degree of tempered optimism in the Borders. Only this week, we heard that the Scottish College of Textiles will be retained in Galashiels following a welcome decision by Heriot-Watt University after a summer of campaigning by the local community, which I was able to take part in. That means that 450 female students in higher education will stay in Galashiels to study.

The optimism is tempered, because of what I have discovered as I have visited schools and spoken to high school students. For example, when I visited Earlston High School just before the summer and asked how many girl students were going to stay in the Borders, not one girl put her hand up. Out-migration from the Borders is even more acute for women. There is optimism because the Borders has the highest proportion of women starting up businesses, but that optimism is tempered because our economy has some of the biggest structural problems in supporting that. There are problems with accessing child care; there is a predominance of part-time working and shift work among women, to which Ms Baird referred; and there are problems not only with short-term contracts, but with women being unable to source employment because of the high cost or unavailability of rural transport.

In the private sector, which is mainly what I want to talk about, more than 90 per cent of businesses—not only in the Borders, but in Scotland—have fewer than 10 employees. When it

is predominantly women who are starting up companies, that causes an increased problem for the productivity gap within the economy.

I end with a specific request for the minister on the intervention that I made on Ms White. The data sampling that we have is unreliable and we have only a very small amount of data. The minister will remember that I discussed that with her after my meetings with the Scottish Low Pay Unit and the Low Pay Commission. We need more reliable data and better sampling from the Office for National Statistics and the "New Earnings Survey" as well as within businesses.

I commend Sandra White and hope that the minister will find time to meet me and, I hope, representatives from the Office for National Statistics to discuss the date.

17:50

The Deputy Minister for Communities (Mrs Mary Mulligan): I congratulate Sandra White on securing the debate this evening.

Women fought for decades to win the right to equal pay, but 30 years on from implementation of the equal pay legislation, we still have not achieved equal pay. That is why it is crucial that we have this debate.

The gap has lessened—perhaps Christine Grahame made a slip of the tongue when she said that it had not—but the pace of change is slow and I share the concern that it is slowing still further. Therefore, I feel the frustration and anger that many women feel on a day-to-day basis in their attempts to achieve equal pay.

The motion refers to the figures in the PayFinder.com research. Members will notice that those figures differ from those used by the Executive and the Equal Opportunities Commission—that has been commented on this evening. That is because the figures used to describe the gender pay gap by Government and the EOC are generally figures for hourly earnings, not weekly earnings, and they draw statistics from the "New Earnings Survey" rather than from the self-selecting sample that PayFinder uses. I do not mean that to be a criticism. In fact, whatever the source of statistics, there is no doubt that there is a significant pay gap between men's and women's hourly earnings. That is unacceptable and needs to be addressed.

The research makes it clear that many factors contribute to the pay gap. Women are concentrated in the lowest paid occupations and in jobs that are traditionally undervalued. Jeremy Purvis's contribution confirmed that those who work in the textile industry have continuously experienced low wage rates. In most occupations, women tend to hold more junior positions, and men and women have different experiences of

promotion and progression at work. There are different experiences in skills and education. As is often mentioned, having children and other family and caring responsibilities has an effect on earnings. There is discrimination at work and in pay.

Women want a better deal in the workplace. Our figures show that women's hourly pay lags 16 per cent behind men's for full-time workers and an atrocious 37 per cent behind men's for part-time workers, so women have a right to demand that action is taken.

We all know that pay legislation is a reserved matter, but I do not want to concentrate on the legislation. The issue is putting into practice the spirit and the letter of the law. Shiona Baird said that having the legislation was not the end of the matter, and we really do have to change people's attitudes and responses to the problem.

The issue is what is done to ensure that women and men are properly and equally rewarded for their work and to ensure that women can participate fully in the workplace without discrimination or disadvantage. It is also about ensuring that women do not continue to be amongst the poorest in our communities and to carry that poverty throughout their working lives into old age.

The UK Government has done much to address the issues. It has introduced the minimum wage, which benefits three quarters of a million women workers every year and which has reduced the pay gap by 2 per cent; it has introduced tax credits to support low-income families; and it has simplified the tribunal procedures. I heard what Christine Grahame said about the fact that it is often difficult for people to make claims to the tribunal. It is important that we provide a procedure that makes people feel more able to challenge the inequalities and to obtain equal pay. Finally, the UK Government has introduced flexible working rights.

Members have asked, rightly, what the Scottish Executive can contribute. Here in Scotland we have improved access to child care. We have supported lone parents, most of whom are women, in accessing higher education and returning to work. In partnership with the EOC, the Scottish Trades Union Congress, the business community and others, through the close the gap initiative, we have campaigned to reduce the pay gap in Scotland. We undertook an equal pay review of the Scottish Executive in April 2003 and required all non-departmental public bodies to do likewise. We realise that the Executive must set a good example as an employer.

On Carolyn Leckie's point about local authorities, we have introduced the statutory duty of best value, which requires public bodies to take

account of equal opportunities' requirements, including the Equal Pay Act 1970. When that is audited, we will see what effect there has been and we will take action against those who have not yet sought to deal with the issue of equal pay.

Ms White: I was going to ask the minister about the audits, but she has just mentioned them. Will the Executive take on board the idea of giving awards to the companies that perform best in respect of equality in accordance with the 1970 act?

Mrs Mulligan: I recognise the spirit in which Sandra White makes that suggestion, but I am not sure that I should reward people for doing what is right. However, we could think about whether such a scheme could encourage others.

Tackling equal pay must be a priority. It is not only right that women's work should be properly valued and that women should expect a fair deal in the workplace; it is vital for our economy. Scotland needs to be able to draw on the skills and talents of all its people; it cannot make the best of what it has when there are barriers to participation. That means recognising the needs of women in all their diversity.

We welcome the recently established UK women and work commission and we will work to ensure that the Scottish dimension is understood in its deliberations. We also welcome the UK Government's commitment to introduce a public duty to promote gender equality. That will provide a real opportunity to advance the position of women in Scotland.

From the outset, the Executive and others in the Parliament have taken the issue of women's equality seriously. We have taken action that has helped women, but we all know that there is much more to be done. I take on board the point that Sandra White and others made about doing an audit. We heard also the members who said that it is difficult to provide the statistics that would allow us to compare like with like. However, that should not necessarily deter us from doing an audit. I will consider how we can take that forward.

We are determined that the work to reduce the pay gap between men and women will continue. I assure the supporters of the motion and everybody in the chamber that we will sharpen our focus on equal pay in the coming months, in partnership with the EOC, the Parliament's Equal Opportunities Committee and others. We intend to make a difference in whatever way we can. We will take action across the Executive, but we also recognise that we need to pull together if we are to make a significant difference to the lives of many women in Scotland today.

Meeting closed at 17:59.

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