

# **MEETING OF THE PARLIAMENT**

Thursday 11 November 2004

Session 2

£5.00

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2004.

Applications for reproduction should be made in writing to the Licensing Division,  
Her Majesty's Stationery Office, St Clements House, 2-16 Colegate, Norwich NR3 1BQ  
Fax 01603 723000, which is administering the copyright on behalf of the Scottish Parliamentary Corporate  
Body.

Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by Astron.

---

# CONTENTS

Thursday 11 November 2004

## Debates

Col.

<b>FOSTERING</b> .....	11745
<i>Motion moved—[Euan Robson].</i>	
The Deputy Minister for Education and Young People (Euan Robson) .....	11745
Mr Adam Ingram (South of Scotland) (SNP) .....	11750
Bill Aitken (Glasgow) (Con) .....	11753
Scott Barrie (Dunfermline West) (Lab) .....	11755
Mr Andrew Welsh (Angus) (SNP).....	11758
Donald Gorrie (Central Scotland) (LD) .....	11761
Robin Harper (Lothians) (Green).....	11763
Mrs Nanette Milne (North East Scotland) (Con).....	11765
Christine May (Central Fife) (Lab) .....	11767
Frances Curran (West of Scotland) (SSP) .....	11770
Alex Fergusson (Galloway and Upper Nithsdale) (Con) .....	11772
<b>ONE MINUTE'S SILENCE</b> .....	11774
<b>FOSTERING</b> .....	11775
John Swinburne (Central Scotland) (SSCUP).....	11777
Mr Frank McAveety (Glasgow Shettleston) (Lab) .....	11779
Robert Brown (Glasgow) (LD) .....	11782
Dr Elaine Murray (Dumfries) (Lab) .....	11784
Mary Scanlon (Highlands and Islands) (Con).....	11787
Mr Kenny MacAskill (Lothians) (SNP) .....	11790
Euan Robson .....	11792
<b>FIRST MINISTER'S QUESTION TIME</b> .....	11796
<b>QUESTION TIME</b> .....	11808
<b>POINT OF ORDER</b> .....	11832
<b>MEMBERS' BILLS</b> .....	11833
<i>Motion moved—[Iain Smith].</i>	
Iain Smith (North East Fife) (LD) .....	11833
Mr Bruce McFee (West of Scotland) (SNP) .....	11837
Mr Jamie McGrigor (Highlands and Islands) (Con) .....	11838
Cathie Craigie (Cumbernauld and Kilsyth) (Lab).....	11840
Mr Mark Ruskell (Mid Scotland and Fife) (Green).....	11842
Donald Gorrie (Central Scotland) (LD) .....	11844
The Minister for Parliamentary Business (Ms Margaret Curran) .....	11845
Robert Brown (Glasgow) (LD) .....	11847
Mr McGrigor.....	11849
Bruce Crawford (Mid Scotland and Fife) (SNP) .....	11850
Karen Gillon (Clydesdale) (Lab) .....	11852
<b>BILLS</b> .....	11855
<i>Motion moved—[Karen Gillon].</i>	
Karen Gillon (Clydesdale) (Lab) .....	11855
Mr Bruce McFee (West of Scotland) (SNP) .....	11858
Mr Jamie McGrigor (Highlands and Islands) (Con) .....	11860
Donald Gorrie (Central Scotland) (LD) .....	11862
Pauline McNeill (Glasgow Kelvin) (Lab) .....	11864
Mr McGrigor.....	11867
Bruce Crawford (Mid Scotland and Fife) (SNP) .....	11868
The Minister for Parliamentary Business (Ms Margaret Curran) .....	11868
Iain Smith (North East Fife) (LD) .....	11870
<b>DECISION TIME</b> .....	11875

<b>DYING WITH DIGNITY</b> .....	11876
<i>Motion debated—[Jeremy Purvis].</i>	
Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD) .....	11876
Michael Matheson (Central Scotland) (SNP) .....	11880
Michael McMahon (Hamilton North and Bellshill) (Lab) .....	11881
Mrs Nanette Milne (North East Scotland) (Con) .....	11882
Eleanor Scott (Highlands and Islands) (Green) .....	11884
Mike Rumbles (West Aberdeenshire and Kincardine) (LD) .....	11885
Richard Lochhead (North East Scotland) (SNP) .....	11886
Paul Martin (Glasgow Springburn) (Lab) .....	11887
Dennis Canavan (Falkirk West) (Ind) .....	11888
Alex Neil (Central Scotland) (SNP) .....	11889
Mr David Davidson (North East Scotland) (Con) .....	11890
The Deputy Minister for Health and Community Care (Rhona Brankin) .....	11891

## Oral Answers

	<b>Col.</b>
<b>FIRST MINISTER'S QUESTION TIME</b> .....	11796
Airport Rail Links .....	11803
Cabinet (Meetings) .....	11798
Convention of the Highlands and Islands .....	11806
Fresh Talent Initiative .....	11804
Prime Minister (Discussions) .....	11802
Prime Minister (Meetings) .....	11796
<b>SCOTTISH EXECUTIVE</b> .....	11808
<b>EDUCATION AND YOUNG PEOPLE, TOURISM, CULTURE AND SPORT</b> .....	11808
Antisocial Behaviour (Schools) .....	11813
Outdoor Education .....	11809
Primary Schools (Free Fruit) .....	11810
Secondary Schools (Modernisation) .....	11811
Sonar 2087 .....	11815
Tourism (Promotion) .....	11814
VisitScotland (Funding) .....	11808
<b>FINANCE AND PUBLIC SERVICES AND COMMUNITIES</b> .....	11816
Open Space (New Developments) .....	11821
Public Sector (Wages) .....	11823
Scotland Act 1998 (Powers) .....	11819
Second Homes .....	11822
Supporting People .....	11816
<b>GENERAL</b> .....	11824
Calman Report .....	11829
Courts (Modernisation) .....	11828
Draft Sexual Health and Relationships Strategy (Consultation) .....	11824
Gambling .....	11830
Small Claims Procedure .....	11829
Smoking .....	11824

---

# Scottish Parliament

*Thursday 11 November 2004*

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

## Fostering

**The Deputy Presiding Officer (Trish Godman):** The first item of business this morning is a debate on motion S2M-1984, in the name of Peter Peacock, on fostering.

I remind members that the debate will be paused at 11 o'clock to allow Parliament to observe a minute's silence.

I call Euan Robertson to speak to and move the motion.

09:30

**The Deputy Minister for Education and Young People (Euan Robson):** Mr Robertson is not here, Presiding Officer, but Mr Robson is.

I very much welcome this chance to debate a topic that is of national significance and that I have come to understand in my time as Deputy Minister for Education and Young People as being of profound importance to many children and young people and to those who care for them. Fostering is a vital service carried out by dedicated people across the country—people with what I think are extraordinary skills and abilities. I want to place on record my thanks for all their efforts, and I am sure that members will want to join me in those sentiments.

Times have moved on considerably for fostering. The challenges that foster carers face are in some ways greater and they are certainly more complex than hitherto. Foster carers care for some of our most vulnerable and troubled young people and we must ensure that the preparatory training and support that they need is readily available and appropriate. The Executive has been taking a thorough look at the current state of fostering in Scotland, and in particular at the nature of the support that foster carers might need to enable them to do their job. We have funded the Fostering Network to undertake an audit of fostering, and I shall speak more about the network's initial findings in a moment.

Part of the purpose of today's debate is to hear the views of members in this chamber. I recognise that a number of MSPs have expertise to bring to the Parliament from their past professional experience and from their constituency experience. We all have a keen interest in

improving outcomes for looked-after children and in improving the services they receive. I look forward to everyone's contribution to the debate.

The most recent children's social work statistics, which were published on 26 October, illustrate some important points. Of the 11,675 young people looked after at the end of March 2004, 3,461 were with foster carers. That is an increase of 5 per cent since last year and 13 per cent since 2000. I know that, for some young people, foster care will not be an appropriate option. However, that increase in the use of foster care, where young people are, of course, very much part of the local community, is something that I am keen to encourage.

However, the statistics also tell a story of underachievement and bleak futures for a large number of looked-after young people. Of 16 and 17-year-old care leavers, six out of 10 did not achieve any qualifications at Scottish credit and qualifications framework level 3 or above, compared with less than 10 per cent for Scotland as a whole. Around 60 per cent of young people leaving care were not in education, employment or training, compared with 14 per cent of all 16 to 19-year-olds in Scotland. There has been little change in those proportions compared with previous years. Those young people deserve the same chances in life as other young people. We need to ask more of our local authorities in what they are achieving for looked-after young people. That is why we have recently announced additional funding of £6 million to support improved outcomes for looked-after children.

**Mr Andrew Welsh (Angus) (SNP):** Can the minister explain the reasons for that underachievement? Tackling those reasons will mean that we can tackle the problem.

**Euan Robson:** We have some idea, but not a full idea, of the reasons for underachievement. That is why we have put funding into some innovative projects to see whether we can change the levels of underachievement. In some local authority areas, there are examples of the trend being reversed. We want to find out the reasons for that reversal and we are taking active steps to see whether we can find an answer. As Andrew Welsh will appreciate, there may not be a single answer. Rather, a cluster of questions and problems may require a number of answers.

I recognise the challenges that local authorities face in ensuring adequate provision of foster care. I wish to encourage the use of high-quality foster placements, where those are the best way of securing improved outcomes for children. I want to reduce the need for young people to be in residential care. To do that, I recognise that there must be enough foster carers, with the right skills, to provide proper support to those young people.

To enable us to get to that point, and for local authorities to make that transition in service delivery, I recognise that we need to invest in recruiting and training new foster carers. At present, there is a shortage of suitable foster placements, and foster carers are paid allowances that vary significantly across the country. We need to ensure that all foster carers are paid allowances that recognise the work that they do, and that needs to be far more consistent across Scotland. I therefore recognise the need to invest in fostering in the short term, to recruit and train new foster carers, and to ensure that all foster carers are paid a fair and consistent allowance.

**Maureen Macmillan (Highlands and Islands) (Lab):** Has the minister considered the situation of grandparents who are looking after children, perhaps because the parents are deceased, but who cannot get the sort of payments that foster carers get? Does he recognise that that needs to be addressed?

**Euan Robson:** I am grateful to Maureen Macmillan for her intervention. In June, I wrote to local authorities informing them of their duties with regard to paying allowances for what might be described as kinship care. I am happy to share that information with Maureen Macmillan after the debate.

In the longer term, the availability of high-quality foster placements should reduce the need for so many children to be looked after in what is often very expensive residential care. The resultant saving should offset some of the annual cost of fostering and provide for additional investment.

In the statement on the spending review, the then Minister for Finance and Public Services said that we would increase allowances for foster carers who look after young people over 15 years old. Today I can say that we will not only fulfil that commitment but go further. I am therefore announcing that we will provide local authorities with a total of £12 million over two years from 1 April 2005, to allow them to invest in improving allowances for foster carers. The funding will allow them to make investments that will improve allowances, and that in turn should help to attract more foster carers, which in turn will permit more young people to move from residential care to foster care. Our funding package is therefore geared to support local authorities in making the transition from residential care to foster care for more of our young people. As I said a moment or two ago, that will allow councils over time to deploy savings in residential care costs into better foster care. I will announce detailed allocations to individual local authorities in the near future, after further consultation.

Let me make it clear that money alone is not the answer to all those problems. I have recognised

the need for investment and made clear our commitment, but that is only one part of the better future that we want for our looked-after children.

**Tricia Marwick (Mid Scotland and Fife) (SNP):** Will the minister go a wee bit further and explain how the money is going to be divided among the 32 local authorities? Will it be divided according to the number of children in foster care, or will it simply be divided on a population basis?

**Euan Robson:** We shall conduct discussions with local authorities, because there are different problems for different local authorities, and different local authorities are paying different rates at present. I will announce further details after those discussions with the local authorities have been concluded.

As I said, we are talking not only about money, but about the attitude, commitment and recognition that we take to the young people in foster care. We must have the attitude that sees those young people as people who have the right to achieve and the professionals who work with those young people must ensure that that right is exercised. We must have a commitment to helping a young person to see a future for themselves as a happy, integrated member of society. We must recognise that young people have aspirations and that their aspirations need to be encouraged.

**Mary Scanlon (Highlands and Islands) (Con):** On the subject of the £12 million, given that Glasgow City Council pays £60 more than the City of Edinburgh Council does for a child who is over 16 years old, how will the money be distributed? Are you saying that Glasgow is paying enough and that other councils should uprate their payments to that level?

**Euan Robson:** We want to achieve fair and consistent allowances. As I will go on to say, we also want investment in such things as support services and training for foster carers. We will ask the local authorities, where they are paying allowances, to use the additional resources to ensure that additional training and other opportunities are made available to foster carers and that they provide support services to foster carers.

With demographic trends as they are, we need to ensure that all our young people have the support that they need in order to reach their full potential. We should do that not only because every individual has their own unique worth, but because our vision of a smart, successful Scotland depends on all our young people developing their talents to the full and then putting those talents to best use. There is evidence that young people in foster care achieve more than those in residential care and that they go on to lead successful, independent lives. Although there are a variety of

reasons for that, the main lesson to draw is that, when given the support, looked-after young people will shine.

The Who Cares? Scotland report that we published recently showed that only 29 per cent of the young people in residential care whose responses were included in the report achieved standard grades. For young people in foster care, the figure was 67 per cent. The report ends on a poignant note:

"Looked after young people sit in classrooms around the country, in schools the length and breadth of Scotland, yet for all intents and purposes they are in a different class."

That situation must end.

I want to make it clear that I am not saying that foster care is the only answer to the many issues that need to be tackled before looked-after children get the same chances as other children. I am saying, however, that foster care has a proven track record of success. If we want to build on that, and make it available to young people with more complex needs, we need a modern fostering service.

As I said earlier, we have commissioned the Fostering Network to undertake an audit of fostering across Scotland. The network will complete its work in April next year, but we have some initial findings that I would like to share with the chamber. The survey found that the morale of foster carers is high, with 92 per cent of foster carers reporting that they are proud of their role—as they rightly should be. We need to keep sight of that fact and build on it. The survey also found that children are being placed in foster care at a younger age and the initial findings note that their needs are at least as complex as those in the older age group.

It also appears that sibling groups are increasingly coming into care. The expectation was noted that such groups would be kept together, which can lead to foster carers caring for a large number of children at one time—yet another challenge for carers. The survey also found that 80 per cent of children had contact with their birth parents, which often involved the foster carer in working with the child's parents—yet another set of skills that foster carers need.

An important part of the audit will be the recommendations on what preparatory training a foster carer needs to be able to meet those challenges. We are not due to receive that section of the audit until next year. However, the findings that we have received so far show that only 11 per cent of respondents have gained further qualifications since becoming foster carers. A number of factors seem to be involved, including lack of child care cover, distance of travel to learning base and timing.

The findings give us food for thought. That is why, in addition to the £12 million already announced, I am considering a further investment in the provision of training and support for foster carers. Our thinking and what is made available will be informed by the Fostering Network's audit, which, as I said, I hope will be available in the early part of next year.

I believe that I am well beyond my time, Presiding Officer. I will therefore conclude with one or two final remarks. Looked-after children are our children: we all need to work together in partnership to ensure that they get the same chances in life as their non-care peers. A vitally important part of the service that will deliver this success is fostering. That is why we have made £12 million available to improve fostering and ensure a fostering service fit for the 21<sup>st</sup> century.

We require, and young people rightly demand, a service that meets their needs. To do that, we must shape a modern fostering service. In the course of this morning's debate I look forward to hearing views on the shape of the future services.

I move,

That the Parliament, in acknowledging that children thrive best in strong families, recognises the important role that foster carers play in providing a supportive and loving family environment for many of our most vulnerable children and welcomes the Scottish Executive's intention to invest in the future of the fostering service to increase the number of high quality placements and give local authorities resources to establish a fair and consistent system of allowances for foster carers.

09:46

**Mr Adam Ingram (South of Scotland) (SNP):**

The Scottish National Party welcomes the commitment that is expressed in the Executive motion to boost the fostering service in this country.

I listened carefully to what the minister said and welcome his intentions. That said, as the minister appreciates, the devil is often in the detail of a proposal and good intentions do not guarantee the outcomes that all might desire. Scottish National Party members would therefore like to study any proposals in some depth before we reach a final, considered judgment.

There is no doubt, however, that significant investment in the fostering service is long overdue. I refer members to the concerns expressed by the child care charity, the Fostering Network, which claims that Scotland is short of some 700 foster carers. That is a crippling shortage, when one considers that more than 3,000 children are living with just over 2,000 foster families. Too many children's lives are being badly disrupted by having to make frequent moves and by having to

go to foster homes a long way from family, friends and school.

The statistics show that in Scotland one in four children who live away from home in public care were placed in three or more homes in the last year, whereas the equivalent figure for England is one in seven children. What is more, the problem of recruitment and retention is not a new phenomenon. Back in 1999, the then Minister for Children and Education, Sam Galbraith, announced a review of the payment structures in fostering. He did so in recognition that the under-resourcing of foster carers was a major disincentive. Although it has taken a long time for the Executive to fulfil that pledge, let us hope that this is a case of better late than never.

There is no doubt that the allowances that are paid to foster carers do not meet the true costs of looking after a child. Indeed, research that was commissioned by the Scottish Executive said so, as did the Convention of Scottish Local Authorities report on foster care, both of which were published in 2000.

The Fostering Network's broad estimate is that each child in Scotland is being under-resourced by approximately £50 per week. That figure is based on university research on the true costs of caring. Either children's needs are not being fully met, or carers are subsidising the needs out of their own pocket. Whatever the reason, the net effect is indisputable: more carers are quitting. The figures show that 5 to 10 per cent are doing so every year. Fewer carers are being recruited, which also limits placement choice. That result increases the likelihood of a mismatch between the child and his or her foster family, which leads to disruption and further moves. These children are among the most vulnerable and damaged in our society and they deserve better from our public services. Foster care is not just about offering a place of safety; it should offer the opportunity for the child to experience stability and an environment that gives them the chance to recover and develop.

The Association of Directors of Social Work is wholly supportive of the Fostering Network's call for better support for foster carers. The association acknowledges that there is inconsistency in the basic allowances and fees across the country. In some areas, independent fostering agencies that offer better remuneration to foster carers are springing up. Given the dearth of foster carers, the local authorities are being forced into using those agencies, which adds significant pressure to already stretched budgets.

The ADSW argues that local government cannot handle the situation without a substantial hike in the funding of children's services from the Executive. The £12 million that the minister announced this morning, while welcome, will not

make inroads into the estimated £150 million shortfall in funding for children's services as reported by the ADSW, which has led to a situation where local authorities need to spend a third more on those services than they get from the Executive. The minister will be well aware of the representations that local government has made in that regard. The reaction of local government to the detail of the proposals will be indicative of how well the Executive has measured up to the challenge.

The Executive needs to demonstrate that it appreciates that we need to make a step change in the provision of foster care services. As institutional care is phased out, the demand for foster care can only grow, and the service will continue to be the major provider of care for the most damaged, vulnerable and demanding of Scotland's children.

We need to reflect on the words of the COSLA report:

"Foster care is a difficult and demanding task. It is also a very isolated one in comparison with other child care placements. This needs to be taken into consideration in the support of carers to ensure that children are given the quality and type of care that they need and deserve and carers are given the information and help to develop the skills that they need to care for foster children without prejudicing their own family relationship."

Yet we know that less than 1 per cent of carers had any form of specific accredited child care training. We are in danger of creating a two-tier system, where children and young people in foster care will be cared for by people, but where there is no agreed national minimum in terms of training, background or experience. The very opposite applies to children in residential care.

Does the Executive intend to establish a national vehicle to deliver skills training to the foster care service? Alternatively, how are fostering support services at local level going to be developed to equip carers with the necessary preparation and continued training and support on a regular and consistent basis? The minister has yet to develop those proposals.

The time has come to stop thinking of foster carers as unsung heroes, as the Executive is fond of labelling them, and instead think of them as professional carers who need to be suitably trained, fairly remunerated and given the back-up that they need for the challenges that they will undoubtedly face. That is the view of the social work directors who are calling for a clear national strategy from the Executive, backed by the requisite resources. Such a need is ever more pressing, given the imperative to establish national standards and an inspection regime, as found in all other child care services.



Finally, reference has been made to kinship carers—the grandparents or other relatives who look after children who would otherwise be the responsibility of the foster care service. Often, those carers get little support from local authorities, yet they provide an invaluable service to the children in their care and to their local communities. Any national strategy for the foster care service must recognise and assist that under-appreciated group of people.

09:54

**Bill Aitken (Glasgow) (Con):** I begin by echoing the words of the minister in paying tribute to those who foster. We have to consider ourselves fortunate indeed that so many people in Scotland are willing to act as foster-parents and give children—many of whom are damaged psychologically and sometimes physically—the opportunity to live in a loving family environment. We are very fortunate indeed.

While foster care affects only 1 per cent of children under the age of 18, we agree that the implications of the Executive's existing policy fall across the board of children who are in need. We rely on the undoubted altruism of those who understand that a stable and secure childhood is a prerequisite for a well-adjusted and successful adulthood, but we cannot be complacent. Foster homes should provide a large number of facilities—a caring, loving environment and an opportunity for intellectual and psychological growth. However, foster homes can only be successful as long as they are not overcrowded or underfunded, and only as long as they are run by those who, in taking in the most vulnerable of youngsters, recognise what has to be done. If that happens, Scotland will be a better place.

The Executive's policy on foster homes has not been entirely successful. One voluntary organisation—the Fostering Network—has reported that Scotland is, as I speak, in need of more than 700 supplemental foster homes. We call on the Executive to follow through on its motion and “invest in the future” to ensure that the shortfall is overcome. Only when the Executive gets serious—and I know that it is serious about the shortage of foster care—will we see the full result and only then will all young people be able to achieve their full potential.

We must consider ourselves lucky that so many citizens are willing to co-operate in such a magnificent manner. However, we must remember that the shortfall in the number of foster homes is dangerous, because it means that many youngsters who are at risk may not get the care that they need, and may resort to antisocial behaviour.

Statistics show that the educational achievement gap between children who live at home and children who are put into foster care is widening. Such a gap can be explained in many ways. Understandably, children who find themselves in foster care need stability in order to thrive. Unfortunately, stability, by definition, is hard to come by when children come from mixed-up and seriously damaged backgrounds. That is not the Executive's fault, but it must ensure that sufficient places are available to provide that stability, because enabling a child to establish roots at a single school facilitates the forming of relationships with teachers and other youngsters, and means they are less likely to resort to antisocial behaviour. We must provide stability, otherwise children in foster care will continue to feel disengaged in school and, worst of all, begin to doubt themselves.

Frankly, the academic achievement gap is also sometimes the result of low teacher expectation. Studies have shown that teachers and social workers too often defer to incorrect preconceptions that looked-after children will not be able to function in the classroom. While the achievement gap shows that looked-after children are having problems in school, in many instances we must make it clear to our social workers and educators that foster-children deserve—and, if anything, require—more attention than the regular student. We must believe in those children, for if we do not, no one else will.

The problems will not be solved simply by throwing money at them, although I welcome the increased funding announced by the minister. The Executive has in the past increased funds for school supplies for foster-children, yet studies have shown that the policy is not being implemented effectively because, in many cases, children and their foster-parents do not have a say in how the money is used and allocated.

I call on the minister to think carefully about how he will deal with the fostering crisis overall. Offering more money to potential foster-parents is not the only answer. Indeed, if that policy is adopted without proper screening systems, we could witness a serious decrease in the quality of foster homes. Yes, of course more money must be spent, but more important, we must strike a delicate balance between expenditure on homes and the proper education of looked-after children and those who care for them. We must ensure that foster-children are safe and secure wherever they live. That must be one of the pre-eminent thoughts in our minds. However, in giving foster-children and foster-parents decisions on how money is allocated, we can only improve matters.

Finally, I turn to an old hobby-horse about adoption. In many cases, fostering is only a short-

term solution. Where a child seeks a permanent home, we must ensure that our adoption procedures are sufficiently flexible to allow for that. To much politically correct thinking surrounds this issue. If the parents are good enough, competent enough and big-hearted enough to look after children, considerations such as age and race should be secondary. Children's safety must always be paramount, but some of the bureaucracy attached to the system is a positive disincentive to people adopting. We should be encouraging people to adopt, not putting unnecessary barriers in their way.

We have not felt it necessary to seek to amend the Executive's motion. We acknowledge that its intentions in this matter are good, although we question whether some of the approaches that it has adopted are the best way forward. Only when we consider matters carefully and cogently and acknowledge that some of the sacred cows of social work thinking in this respect have to be slaughtered can we move forward and achieve what I know we all seek—better provision and a more positive future for Scotland's looked-after children.

10:01

**Scott Barrie (Dunfermline West) (Lab):** Bill Aitken seemed to turn to me when he was talking about slaughtering sacred cows of social work thinking. I do not know whether the comment was aimed at me deliberately or whether I am showing undue paranoia this morning. I take on board one of the points that he made towards the end of his speech about the fact that there are no amendments to the Executive's motion. That suggests that there is consensus that the subject is important and that we should be seeking better ways of dealing with the issues that the three previous speakers raised—I am sure that all the following speakers will do so, too—in relation to difficulties and possible solutions.

When I asked a former colleague of mine who heads up the family placement team in Fife what issues should be raised this morning, she said that a general recognition of the invaluable role that foster carers play would be incredibly helpful, so I will turn later to the important issues of fees and foster carers' tasks. Foster carers are unsung heroes; other members of society do not acknowledge the invaluable job that they do, but such recognition would go a long way towards addressing their grievances. As the minister said in his opening remarks, the fact that 92 per cent of foster carers think that they do a valuable job, which they enjoy, shows a remarkable level of satisfaction. I am not sure that that is replicated among other members of society, who give

fostering little thought—they would not think of doing it unless we pushed them to it.

Although I do not agree with the United Kingdom honours system, I was pleased to write a letter of support for one of the people's nominees—a foster carer in Fife who had fostered more than 200 children, a large proportion of whom were pre-adoption babies. I was disappointed that she was not recognised in the new year honours list, because that would have gone a long way towards giving foster carers the recognition that they deserve.

On pre-adoption babies, we have to break down the categories of foster carers, because they do not carry out just one task; fostering is a multitask effort. The fostering of a pre-adoption baby is one of the most difficult tasks because the foster carer knows that they will be giving up a new-born child in six to eight weeks. That is a difficult job to do because of the bonding that should have occurred between the birth mother and the baby, but did not, and the artificial bonding that will take place between the baby and its substitute carer before it goes to its adoptive parents. Foster carers do not just have to play that relinquishing role with pre-adoption babies; it occurs with younger children who might be placed with a family on an emergency temporary basis and who might remain with the family for months if not years before moving on to permanent care with someone else or returning to their birth family. It is difficult for carers to invest in such young people and give them everything that they want to give them, but to have then to give them up.

The issue that Bill Aitken raised about political correctness in adoption needs to be explored further, although I would call it not political correctness but good practice. Perhaps Bill Aitken's problem is not with political correctness in adoption itself; we have to consider what not just the Labour Government at Westminster and the Scottish Executive, but previous Tory Governments have done in legislation on the matter. The Boarding-out of Children (Foster Placement) Regulations 1988 (SI 1988/2184), which we still use, and the Children (Scotland) Act 1995, were introduced under the Conservatives. Those are major pieces of legislation that determine the facts that have to be taken into account when children are being placed. They state clearly that we must acknowledge a child's religious and ethnic background when placing them with substitute carers. We have to take on board the fact that that is the legislation with which we are working. It is unfair that we criticise social workers for doing what the law tells them to do, rather than consider what the law says.

Members have mentioned the importance of the fostering task, but we should acknowledge the

hard work that is involved in a person's becoming a foster carer in the first place. Once potential foster carers intimate their interest, we expect them to attend a large number of preparation group meetings so that they know what sort of issues they will face. They also have to undergo police checks, as does their extended family. In normal family situations we rely on the extended family to offer care—such as babysitting or looking after a child for a weekend—so foster carers need the same respite to be built in. We expect the potential foster carers and their families to be assessed, to have extensive reports written on them and to have medical and police investigations carried out. They then have to appear before the fostering panel of the local authority, which might or might not approve them. As someone who chaired a panel in Fife, I know that it is not easy to appear before panels. As much as I thought that I made the situation relatively informal, having someone sit in judgment—whether in that setting or in a more legalistic sense—can be a traumatic experience for people who have many skills to offer. It is difficult to become a foster carer.

I welcome the money that has been announced for training and on-going support for foster carers, because much investment has too often in the past gone into the preparation of foster carers; we have not invested in their retention but have almost just left them to get on with it once they have been approved.

The issue of fees is important. As Adam Ingram indicated, independent agencies that offer fostering services have not sprung up only recently. The major voluntary societies in Scotland have always offered such services; Barnardo's special families project is perhaps the most extensive and most talked about. Independent agencies have always paid foster carers far greater rates than have local authorities and there has always been an internal market in which good, experienced local authority foster carers have been able to move on to get greater financial rewards and greater support from independent agencies. We need a level playing field for our local authorities and the voluntary agencies.

Under the previous system of local government, the larger authorities such as the then Lothian Regional Council and Strathclyde Regional Council were always able to augment the supply of foster carers with what was available in other parts of the local authority area. With a much more fragmented system of local government that has 32 local authorities, the pool of foster carers that is available to some authorities has become much more limited, so they have had to place children at considerable distances from their families. One of the greatest impediments to reintegrating children

with their birth family is their being placed in substitute care great distances away.

It is not surprising that at times plans go awry. With the best of intentions, people make plans to return a child to its home after a short period of fostering, but find that they cannot because of barriers that have resulted from the geographical location in which the child was placed; they may have made new friends, will have to go to a new school and so on. Such matters must be considered if we are serious about addressing the situation.

I want to talk about what has been said about poor outcomes for looked-after children. From what the minister said this morning, we know that children away from home do significantly worse in terms of their educational and social operation than do those who remain in the family home. However, such children do considerably worse if they are in residential care as opposed to foster care. Fifteen years ago, statistics on that caused some local authorities, such as Fife Regional Council, to consider closing down their residential provision and moving to a more foster care oriented way of providing substitute care. Other local authorities have been slower in doing that and the legacy of that tardiness has still to be seen. That is particularly true in the west of Scotland, where the then Strathclyde Regional Council relied unduly on residential care for adolescents, rather than on substitute family care. We need to take that issue on board, which is why today's debate is opportune. We need to help local authorities to address the needs of young people and to ensure that we have a properly trained and rewarded foster care network in Scotland.

10:11

**Mr Andrew Welsh (Angus) (SNP):** One mark of a civilised society is the way in which it treats its children and young people in relation to providing them with the upbringing that will allow them to achieve their full potential in adulthood. I pay tribute to Scott Barrie's obvious expertise in this subject, which has added value to the debate. If that is our goal, fostering and adoption systems will inevitably involve a wide range of policy issues, such as educational achievement, public support for foster carers, developing integrated services, developing quality standards and ensuring that those who leave the care system do so positively and are capable of facing whatever the future brings to them. People who were brought up in ordinary families take it for granted that they will be equipped to deal with such things.

The six principles of the Children (Scotland) Act 1995 still stand good, especially with regard to safeguarding and promoting children's welfare, promoting the family as the medium for care of

children and ensuring that any action through public authorities is properly justified in terms of the needs and the rights of the children and supported by services from all relevant authorities. It is a complex problem that requires input from a range of relevant agencies.

Throughout the process, the welfare of the child must be paramount and the child's views must be taken into account. Note must also be taken of the importance of cultural and linguistic backgrounds. No child should be robbed of their racial or linguistic inheritance in any fostering or adoption decisions. Those are difficult matters, but proper care and concern can be integral to building a safe and secure psychological and physical future for children who, in many cases, start life with other disadvantages.

It is important to stabilise unstable situations and to give such young people a more solid and confident base on which to build their lives. That is—to put it mildly—never a simple task, but it must always be the goal of fostering and adoption procedures.

There are problems aplenty that bar the way of willing public authorities and their staff. Human chemistry—personality, likes, dislikes and prejudices—is the most difficult commodity in the universe with which to deal; as MSPs, we are well equipped to testify to the truth of that. Children bring their own particular baggage, personal experiences and history, so they must always be treated as individuals whose lives and futures are at stake and who can be harmed if the wrong decisions are made.

Fostering is a complex issue. It involves neither a homogeneous group nor a static group. Children's care might be short, medium or long-term and they are involved emotionally and personally with their original families and their foster families. In other words, local authorities are being called on to deal fairly and positively with a multiplicity of problems under what can be trying situations for everyone involved. The difficulty and complexity of their decision making should never be underestimated.

Because foster care is the preferred type of accommodation for looked-after children under 12 years of age in both short and long-term placements, the responsibility on local decision makers is heavy in terms of children's services planning and detailed decision making, and in relation to choosing suitable foster homes and carers, deciding payment levels and checking the delivery of services. This morning, the minister said that the Government intends to reduce residential care and increase fostering. It is important that the increased responsibilities for Scotland's local authorities—which will inevitably follow—must be matched by appropriate extra

resources. In detailed discussions with the minister, I will be asking what can be done to assist local authorities to deliver the goal that we all seek.

I want central Government to provide adequate funding, staff training and logistical back-up to assist local authorities. Resources for fostering services go beyond the social work department to affect almost every other local authority department in terms of meeting the needs of fostered young people from childhood until they leave the care and fostering system. As ever in life, matters such as those that we are discussing are never simple and are never easily solved.

A survey of foster-children—albeit a United Kingdom one—showed that they were 10 times more likely to be excluded from school or to attend a special school, four times less likely to go on to further education and 12 times more likely to leave school with no qualifications. The survey also touched on unemployment, young homelessness, prison, drug abuse and mental health problems. While such problems do not apply uniformly to foster-children, the survey shows the range of difficulties that those young people face and which must be overcome by the collective effort of the authorities involved.

The Government must state clearly how it will add further resources to assist local authorities in relation to inclusion policies at schools, access to educational resources for foster carers and the ways in which foster-children can go on to take part in further and higher education. The detail of how the funds that have been included in this morning's announcements will be distributed will be put to the test by the size and the complexity of the problems involved.

It is clear that fostering involves integrating various services at local and national levels as well as easing the burdens of local authorities and foster carers. When the minister sums up, I would like him to give a positive response in respect of provision of resources and assistance that will allow our local authorities to perform those functions.

All members are united in what we want for these vulnerable young children. I pay tribute to all foster-parents and families who open their homes to provide youngsters with a stable environment that will enable them to leave behind the past and build a better future. There can be few greater tasks, challenges and rewards for those children or our society. The smart, successful Scotland that we all seek must also be a caring Scotland.

10:18

**Donald Gorrie (Central Scotland) (LD):** As it has been in the past, the consensus in favour of

fostering is remarkably strong today. Fostering is not one of those acrimonious political issues, although there are arguments about how best to deliver the service. It is important that, somehow, we convey to foster-parents and other carers how much we support them. I do not know whether it would be practical for the minister to write them all a letter on our behalf, but I think that that would be a good idea.

Furthermore, as Scott Barrie and others have said, we have continually to publicise the importance of caring and foster caring; we have to get the issue into the media in the best possible way. The fact that there is consensus makes that difficult, because more publicity is given to rows. Obviously, today, this consensual debate about caring will not be able to compete in the media with exciting news about Tommy Sheridan. Whatever might happen in the future, Mr Sheridan has made a very important—I am choosing my words carefully—contribution to Scottish public life, and he deserves credit for what he has achieved.

However, today we are trying to excite people about a very important issue. Perhaps we could consider handing out certificates at local or national level. In many voluntary organisations, when a volunteer has done something for five, 10 or 20 years, they get a nice piece of mock parchment to hang on the wall. It would help a bit if we had more of that sort of thing, or something like a fostering day or a caring day when provosts, ministers and local MSPs could do their stuff. When a person is a volunteer, it is very important that they feel that they are appreciated.

We must develop a national policy that can be delivered locally. That is a problem in many cases; some councils find it hard to provide the allowances that are necessary to attract people, or they might not have a good catchment area for foster carers. We need to take advice—I have no doubt that the minister does that—from the children who are looked after and from the carers and foster carers, as well as from the voluntary organisations and social work departments that are involved. We need then to develop a national policy that will deliver on fostering, adoption and caring in general.

On that, I would sign up very strongly for involving grandparents. They might not technically be doing the fostering, but they get a raw deal. Like many other members, I have heard very strong representations on this subject for many years. Grandparents get a raw deal and could contribute much more if the rules were helpful to them.

On investing money, although it is not the only answer, without it there is no answer so we have to have more money for fostering. In connection

with that, the very tight local government settlement in the budget is unfortunate, but it might be that that cannot be altered. In that case, we have to find other ways of funding fostering in addition to what the local councils already have. The Executive has to accept that developing fostering is part of its educational and antisocial behaviour agendas and its aim to build up communities. Some of the money from the budgets for those matters should go into helping fostering. Figures show that if children are well fostered, they do not get into as much trouble as they might otherwise do and they do not have so many problems at school. That would be a good investment—the minister has to be clever enough to tap into other budgets to pay for fostering.

We need training and allowances to keep foster-parents going and to provide continuity. In discussions that I have had with foster-parents, lack of continuity comes up as one of the chief problems. Because councils are very tight with money for foster-parents, they have to shuffle the children around to keep the system going. If there were more foster-parents who were all trained to deal with the various problems, the children would not have to be moved about in that way. Continuity is of great importance when young people face such problems.

**Scott Barrie:** On the point about children having to move around, does the member accept that one of the difficulties that we have with a shortage of suitable foster carers in some areas is that youngsters have to double up? A placement that is approved for two children might actually have three or four children. That can have a disruptive effect on other foster-children—let alone on the birth children of the foster family. The problem is not just that the children might have to move around; it is also about the effect that that has on the placements.

**Donald Gorrie:** That is a very good point. Scott Barrie's experience in this matter strengthens my argument.

We can also try to improve the system by ensuring that there is more support for foster-parents from social work departments, other parts of the council and voluntary organisations. It is one thing to carry a burden alone, but it is another to carry the same burden with some help. Whether it be respite care or clubs for young carers or foster-children, there could be more support for the people who are doing this very important job.

There are a lot of good ideas around. The quality of the debate—until I started to speak—has been very good, and I hope that the minister will take on board some of the ideas to improve the service. That the Executive, the minister and the local authorities have good intentions is fine, but

we have to deliver the means to achieve what we want.

10:25

**Robin Harper (Lothians) (Green):** I start with my involvement in fostering, which took place during my short period as a member of a children's panel. As has been pointed out, all our decisions were centred on the needs of the child; not only that, but separation from parents and fostering were the very last and most difficult of the decisions that a children's panel had to take. Everything should be done to try to prevent that from having to happen. I will return to that theme in a minute.

I am glad to hear from Euan Robson of a consensus on the advantages of fostering as compared with the care provided in care homes, which, as a teacher, I have also experienced. He mentioned educational achievements among looked-after children who are leaving care. There might be something to be learned from the fact that in the children's services performance indicators of 2002-03, five local authorities did significantly better than others in terms of the educational achievement of looked-after children. Those authorities also did significantly better than they had done the year before. Therefore, there must be something to learn from those authorities. If members will bear with me, I will list the statistics.

Aberdeen City Council went from 50 per cent to 54 per cent of looked-after children gaining standard grade English and maths; East Lothian Council went from 46.2 per cent to 66 per cent; Fife Council went from 37 per cent to 61 per cent; Midlothian Council doubled from 33 per cent to 66 per cent; and South Lanarkshire Council went from 27 per cent to 66.7 per cent—all within one year. If just one or two authorities were involved, I would say that, given the small numbers of children in care in all Scottish local authorities, the statistics might not be significant. However, given that looked-after children in five local authorities are doing significantly better, it would be wise of the Executive to take note.

**Euan Robson:** Robin Harper's statistics are correct, and I assure him that the Executive is very interested to know whether there are factors, procedures or policies common to those authorities that have helped to turn the level of attainment around. I also assure him that we will be considering the statistics very closely to see whether there are any lessons to be learned. In Scotland, we need to spread best practice around the country and he has given a good example.

**Robin Harper:** I thank the minister.

I cheer Donald Gorrie for his suggestions on celebrating fostering and Scott Barrie for his proposal for a medal for someone in Fife who has fostered 200 people. We have at least one similar person in Edinburgh and perhaps I should be making the same proposal, although I do not know whether he would agree to it—that would have to be ascertained in advance.

I have always been exercised about panel disposals. It is and has always been the case, both 20 years ago and today, that children's panels cannot make the decisions that they would like to make about children of all ages because of a lack of services and because services are sometimes not available. I realise that the situation is a running sore, but I must draw the Executive's attention to the need for some holistic thinking, as the issue affects not just fostering but social work in general. More must be done, especially for very young children.

Having talked to Children 1<sup>st</sup> recently, I would like to draw to members' attention—I am sure that the Executive's attention has already been drawn to this—the fact that Children 1<sup>st</sup> is developing family group conference services. Although Children 1<sup>st</sup> is not directly involved in fostering, it believes that family group conferences will have an impact on fostering. It recognises that there will always be a need for fostering, but it believes that the use of family group conferences will reduce the number of children in need of foster care placements and thereby reduce the demand for, and alleviate pressure on, fostering services.

Like Donald Gorrie's suggestion about the role of grandparents, the idea behind family group conferences is that the child should be looked after within the wider family. Demand on children's services might be reduced if the strengths of the wider family were drawn on in deciding how best to care for the child. The family group conference brings together aunts, uncles, grandparents, other concerned family members and sometimes close friends so that they can decide on, and take responsibility for, a family plan for the care and protection of the child or young person.

Although child care professionals have an important role in agreeing the family plan, the decision making lies with the family. The role of the FGC co-ordinator—I hate acronyms, so I will just say family group conference co-ordinator—is to find family members who want to be involved with the child. The co-ordinator will help such family members to push aside the barriers or personal feelings that they might have against one another—such issues always need to be faced—and come together to focus on the child. The co-ordinator will help the child and each family member to work out their views on how the child should best be looked after and to express those

views at a family meeting. The process can be difficult and emotional, but a successful family plan will ensure that a child can depend on his or her family rather than on a statutory service to look after them safely.

Children 1<sup>st</sup> is pioneering that approach with half a dozen councils. It appreciates that statutory services often offer vulnerable children the best option of care, but it wants to work on the alternatives that might exist before that option is chosen. It wants to ensure that every viable option for the child remaining safely with the family has been considered. That is an important point. I hope that it does not sound as if I think that fostering is a bad idea. I add my contribution to the plaudits that other members have given fosterers.

I echo Adam Ingram's call for national standards and national inspections—I think that he also mentioned the role of grandparents—because I think that those can only provide greater support for foster carers.

I do not know whether Scott Barrie was suggesting that the process for becoming a foster carer was too complicated, but it sounded to me as if potential carers must jump through an awful lot of hoops. Perhaps the Executive might want to consider whether the process can be simplified.

**Scott Barrie:** If I may clarify my point, I did not say that the process was too complicated; I simply wanted to indicate how difficult the process is. It perhaps must be unduly complicated because of the need to ensure that those who offer substitute care are of the best quality. However, it is not an easy process to go through.

**The Deputy Presiding Officer (Murray Tosh):** Mr Harper, we have time in hand, but I will not be able to give everyone the nine minutes that you have had.

**Robin Harper:** I am sorry, Presiding Officer. You did not remind me of the time and I was not looking at the clock.

I finish by saying that I welcome today's debate and I hope that the issue is debated again in the chamber when we receive the report that is due in February.

10:35

**Mrs Nanette Milne (North East Scotland) (Con):** I am afraid that consensus makes for repetition. Much of what I planned to say has already been said.

I welcome today's debate, which provides us all with an opportunity to pay tribute to Scotland's many excellent foster carers, who have opened up their homes to some of our most vulnerable children and who offer such children the love and

support of a stable family life for as long as they need to be cared for.

Children need to be looked after outwith their parental home for a variety of reasons. The periods of care that such children require can vary, but they may require only a short period before they return, as the majority do, to their own families. Some children may move between residential and foster care, but there are now, thankfully, fewer and decreasing numbers of children in residential care. Others are fostered with a view to adoption in the longer term. As we have heard, today more of those children are younger and increasingly more of them have complex needs.

Whatever the reason that children require care outwith their families, foster care is nowadays the preferred type of accommodation for children under 12 for both long-term and short-term placements. Some 75 per cent of the children who are looked after in accommodation away from home are now in foster care. Given that significant growth in foster care in recent years, the Fostering Network has become an extremely important source of care and support for children and young people who need to find a stable home and the family support that will allow them to thrive and to have a chance to achieve their potential within the community.

As the minister and others have said, the poor educational achievement of looked-after children has been a concern in recent years. Many such children leave school at 16 or 17 with no qualifications and some of them are excluded from school. Others are not in education, employment or training when they leave care. Good foster carers will give the children in their care the support and love that they need to help them to overcome their difficulties and to leave care as more successful and more confident young adults.

The significant shortfall in foster carers that we face in Scotland makes it difficult to find suitable homes for children who need them. Every week that goes by without such a home can make a great difference to a child's prospects for a stable and rewarding childhood, so it is important that placements are made as soon as possible.

As members know, the Fostering Network has estimated that Scotland requires 700 more foster carers. That huge shortfall means that many children need either to move household several times during their time in care or to double up—as Scott Barrie reminded us. That cannot be in their best interests. Therefore, it is good news that the Executive has responded to the call to invest more resources in the fostering service, to increase the number of high-quality placements and to consider the training needs of foster carers.

It is important to recruit only good foster carers, so the assessment process is crucial in judging a person's suitability for fostering a child or particular categories of children. Assessment must be speedy, but it must also be rigorous.

Current financial support for foster carers is less than ideal and many families have ended up out of pocket under the present system. If people are to be attracted into providing foster care, it is important that they receive adequate allowances to cover their costs. Obviously, cash rewards should not become a reason for people to offer themselves as foster carers.

Major variations and inconsistencies exist in the allowances that Scotland's 32 local authorities provide for foster carers. Campaigners have demanded consistency of funding for all foster families. Therefore, the Executive's pledge to provide local authorities with the resources to set up a fair and consistent system of allowances for carers is a welcome step forward that I hope will assist in recruiting and retaining suitable people.

Government incentives are also a welcome step forward. For example, foster carers welcomed last year's introduction of tax relief on fostering income. Relief is now available on allowances and on up to, I think, £10,000 of income. They also welcomed the introduction of home responsibility protection, which ensures that carers will not get a lower basic retirement pension because they stayed at home to look after children and were not able to pay national insurance contributions.

Let me say a brief word about kinship carers. Today, a significant number of children in Scotland are cared for by family members—often grandparents. Although most of them undertake their caring role for love and not for reward, it is important that they receive appropriate and consistent support in carrying out that role. As they are significant players in caring for their young relatives, a more rigorous approach needs to be taken in assessing, supporting and rewarding family carers throughout the country.

As fostering has become such an important part of caring for vulnerable youngsters away from home, the Executive's proposals are timely, welcome and necessary. It is important for our society that the best people come forward to provide the security and stability that looked-after children and young people need if they are to be happy and secure and achieve their potential. I commend the Executive's commitment to investing in the future of the fostering service and I look forward to hearing the detail of the proposals.

10:40

**Christine May (Central Fife) (Lab):** I begin by picking up where Scott Barrie finished, by looking

at the optimum place for children—the place where they have the best possible chance of positive outcomes such as achieving good grades in examinations, for example, and going on to further or higher education. That place is within the natural family unit, which is why, to the incomprehension of outside observers, children are often kept with parents whose skills are less than adequate or less than perfect, with work done to support the family. It is significant that 153 of the 560 children in Fife who are currently the subject of care orders still live at home with their parents and receive that support. It is worth making that point, as that should always be where we start in addressing the needs of children.

I pay tribute to the organisations and people whom I have known over the years since 1988, when I was first elected, who work with children and support families. I am thinking of Barnardo's, the Aberlour Child Care Trust, the Victoria Community Project in Kirkcaldy, Children 1<sup>st</sup> and the many social workers, youth workers, teachers, police officers, community officers and others who have done what they can to support children and families with complex needs. Often, those professionals become the focus of the anger and frustration of parents, relatives and young people themselves for matters that are not their fault and to which they have no perfect solutions.

The issue of grandparent carers—kinship carers—has been mentioned by Nanette Milne, among others. John Swinburne—who is, unfortunately, no longer in the chamber—and I secured a members' business debate on the issue earlier this year. In Fife, 103 children who do not live with their natural parents and who are on the register live with friends or relatives. It is an area of great contention and I am pleased that the minister is looking at it. It requires some strategic analysis and thinking around the needs of those carers, although I suggest that they can never be supported to the level demanded by professional foster carers. We need them because they allow scarce resources to be targeted at the areas of greatest need in fostering and other care services. However, the campaigns around grandparents and their rights are getting slightly muddled, as rights of access are being brought in. I would welcome a focused campaign on kinship care as a separate issue.

I turn to foster carers themselves. Unlike the two groups that I have mentioned—natural parents and kinship carers—foster carers are involved in what is essentially a professional area of work. They do what they do as a job, often in tandem with their other professional job: they go out to work, as do other parents. However, as other members have said, foster carers have, in the past, received little support because there has been little strategic analysis of what is required



and what training is needed. They have also been paid widely different rates, by way of allowances, for what they do. Like Robin Harper, I pay tribute to the education and social work staff in Fife who have done so much to raise the attainment rates of looked-after children in Fife by supporting foster carers and helping teachers and social workers. That has not been a universally popular or easy thing to do. For example, it has involved fewer exclusions, which has raised issues—largely among the parents of other children—because of the disruption that can be caused in classes.

Since the demise of the large children's homes, about two thirds of looked-after children in Scotland have been in foster care, and foster care is now the main plank of our child care services. Fife Council has just reviewed its scheme of payment to foster carers in line with Scottish Executive and national guidelines, and it has taken into account such matters as changing holiday patterns. It now pays an additional week's holiday pay so that foster parents are not prevented from taking two holidays a year, as other parents do. Although their holidays are perhaps of a shorter duration, they may, like the rest of us, choose to go abroad if they wish.

In a conversation that I had this morning with the head of social work in Fife Council, I learned that there are currently 230 children in foster care in Fife. In Scotland, 700 children are waiting for foster care placements; in Fife, the figure has risen to 30. As Adam Ingram said, those are the most damaged and challenging children, and we have to make complex arrangements to meet their needs. Other members have spoken about the fees and the costs, but I leave that issue to one side in order to speak about some of the other problematic issues facing foster carers, local authorities and, perhaps, ministers in considering how we might have a national scheme.

One of the biggest problems is the need for support from other agencies, such as psychological services and health services. Addiction is the single biggest cause of the need for fostering, with more than half of children in foster care having parents with drug or alcohol addiction problems. More than half those children are under five and cannot, in the main, say what has happened to them; therefore, their support needs are much more complex.

The type of foster care need that is most likely to leave children on a waiting list is respite fostering for children with profound disabilities. Such care involves a greater range of issues than the ones to which I have referred. The children may have really complex medical and physical needs and may require a continuing regime of drugs—often involving 10 to 12 separate drugs for which prescriptions have to be issued—while respite

care is carried out. The children also present exceptionally challenging behaviour. Some children with complex physical disabilities are very strong; therefore, foster carers require specialist training in lifting and handling techniques. In addition, it is not that the foster carer has just a child to stay for a short time; there are the other carers who come along with that individual, such as nursing staff and care assistants, and specialist school arrangements may have to be made. There is, therefore, a real need for training, support and, perhaps, helplines and emergency contacts, as that area of foster caring is frequently one of the most difficult.

Disclosure Scotland checks are required for foster carers. I ask the minister to liaise closely with the Minister for Justice, as there are issues to do with delays in Disclosure Scotland checks. Although the service has got better—we all know that it has got better—there are still problems.

In concluding, I remind the minister of two events in Fife that he attended. We spent an evening with young people who had been in the looked-after service. They had produced a wonderful DVD of their experiences, perceptions and hopes. Last week, he attended the launch of the Fife youth work assembly. Again, that is an area in which priority is being given—I hope—to children with the most complex needs.

10:50

**Frances Curran (West of Scotland) (SSP):**

Before I talk about fostering, I want to thank Donald Gorrie for what he said about Tommy Sheridan and his resignation. We in the Scottish Socialist Party believe that Tommy has played an outstanding role at the forefront of Scottish and United Kingdom politics and is one of the best-known politicians in the country. However, we also understand the pressure that he has been under and the reasons why he has made this decision. As he will make a statement today, which will obviously be in the public domain, I do not want to say anything more apart from thanking him for his contribution to our party.

Anyone who watched the BBC programme that followed families who foster or adopt would have been moved and upset by it but would also have been—as I was—utterly inspired by the people who are prepared to provide that kind of home for the children involved. When I told people that I was speaking in this debate, two of my friends told me that they would like to foster. It would be interesting to see how many people would be inspired to say the same thing by a programme such as the one on BBC Scotland. However, if the review does anything at all, it must examine the gap that exists between people expressing their desire to help and how they reach the stage of

becoming foster carers or foster-parents. After all, we are short of 700 places.

I have a real problem with the way Bill Aitken used the phrases “looked-after children” and “antisocial behaviour” in the same sentence. Children end up being looked after for all sorts of reasons, such as their need for respite care or the fact that their parents have been hospitalised. Some people assume that fostering will always be difficult and that it will always involve looking after children who have complex needs. Those children need to be fostered, but we need to challenge that assumption in the campaign if we are to encourage more people to become foster carers or foster parents.

I was interested in many of the points that Christine May made in her excellent speech. I agree that the review cannot simply be more of the same and, although allowances are a problem, it cannot focus on money. I realise that that is an unusual thing for a socialist to say.

Christine May used the term “professional” foster-parents. I wonder how many of us understand what is meant by that. The children who cannot be placed and who wait the longest are those who have complex needs. One category of foster carer is the special foster carer—people with special qualifications to assist with and look after children in such situations. Instead of considering professional, qualified people for those positions, should we salary foster carers in that special category to give them the time to train and to take responsibility for those children? Are we prepared to introduce and fund higher national certificate or higher national diploma courses and qualifications for foster-parents or foster carers? If that does not form part of the review, we will be asking an awful lot of those people.

We have to think differently. No one disagrees with the motion, but the question is: what different steps are we going to take to ensure that these children have the best possible care when their parents cannot look after them? Local authorities, the Scottish Parliament and society as a whole all have a responsibility in that respect. The review must acknowledge that the issue comes down not only to providing money but to making a psychological shift about the role of foster parents.

At the moment, we face a vicious circle that will be resolved only by recruiting more foster carers. I should also point out that the BBC Scotland programme helped to dispel the traditional view that a foster family is an ideal unit made up of two parents and a couple of children. We have to get the message across that all sorts of people in all sorts of family units can foster. For example, single women and men can foster. There is a lack of understanding about that and if we can get the message across and encourage people to come

forward, we will increase the number of foster carers.

Another huge problem is linked to the shortage of social workers. Some foster carers are seeping out the other end because of the pressure that they have been put under. They have been given the child’s case work notes and background and, because of problems in social work services, they are being emotionally blackmailed to take on children for whom they are perhaps not prepared or whose needs go beyond the level of care that they can provide. That is not a long-term problem; it is an emergency. What do we about it? The issue raises more questions than answers.

Although much of the review quite rightly focuses on carers, we must also think about the kind of intensive therapy that we should invest in these children, particularly those with complex needs who are the hardest to please and the hardest to provide a stable environment for outside the family or foster-caring unit. Unless we give the children who have specific therapy, intervention and counselling needs that help as an independent right outside the family unit, some of the current difficulties will remain.

I welcome the review and like the ideas that Christine May has proposed. We should consider the question whether being a foster carer should be a salaried, professional position. I hope that when the review comes out in February, it contains some blue-sky thinking that allows us to move forward.

**The Deputy Presiding Officer:** I call Alex Fergusson, whose speech will be interrupted by one minute’s silence.

10:57

**Alex Fergusson (Galloway and Upper Nithsdale) (Con):** I am sure that I speak for everyone in the chamber when I say that I was disappointed in Frances Curran’s speech. I hasten to add that I was disappointed not by its content but by the fact that she was unable to enlighten us on whether she will be a contender for the leadership of her party. Perhaps we will find out more about that matter later.

I am very pleased to contribute to today’s debate and particularly welcome the acknowledgement in the motion that there is no substitute for a strong family background as the best medium for an upbringing in which a child can thrive. Some people in today’s society would question that claim, and I welcome the Executive’s commitment to the immeasurable benefits of a traditional strong family upbringing. However, in doing so, I recognise with sadness that, perhaps all too often, for some people a life that starts out with the very best intentions can end in collapse. Hope can

become despair and dreams too often are shattered. That can happen for such a wide variety of reasons that I see no point in trying to cover all of them. For whatever reason, in May 2004, 11,500 children in Scotland either had to be removed from their original surroundings and taken into care or became looked after in some other regulated and supervised way.

I dare say that, for some of those children, such a move must come as a relief. However, for others, it must be deeply traumatic. For some, it would mean separation from siblings and, for others, separation from trusted and loved friends. For all those children, being removed by the authorities, the state, the social services or the courts—whatever people want to call them—must be deeply disturbing and could lead to emotional and psychological damage. The fact that that child is in care or in a foster home instantly means that they have a tag or a label that differentiates them from their peers. That alone must have distinct individual consequences. Every child is bound to react differently to that label, which is where the incalculable value of the carer or foster-parent comes in.

At that point, Presiding Officer, I will pause in my speech to allow for the minute's silence.

## One Minute's Silence

11:00

**The Deputy Presiding Officer (Murray Tosh):** I invite all members, officials and members of the public to rise for a minute's silence in commemoration of armistice day.

## Fostering

11:01

*Resumed debate.*

**Alex Fergusson:** It would be nice if members always flooded into the chamber when I rose to speak.

I can barely imagine what qualities it takes to be a good foster-parent. I guess that infinite patience, a high degree of wisdom and an extended forgiving nature come very high on the list. Like the children in their charge, no two foster carers or foster-parents will be alike.

I was interested to read the aims for partnership of the Fostering Network, which state:

"We believe that the greater the involvement of children and young people, parents, foster carers and other relevant professionals in social workers' plans, the more likely it is that children and young people will have a satisfactory experience in foster homes."

I have no doubt that that is absolutely correct. However, constituency experience tells me that the aim is far from being achieved across the board. I have met a parent whose son was in foster care and who voiced concerns to social services about apparent bruising on his son. The boy was very quickly removed, but the foster carer continues to foster. Another constituent told me of a young girl in foster care in a very small village who was not having an easy time in the community and kept coming to him because she was not allowed back into her foster home after school.

I am acutely aware that there may be perfectly sound reasons in both cases and that there are two sides to every story. However, this morning we have heard from almost every speaker about the acute shortage of foster carers. Social work departments nationwide are desperately short staffed and often stretched to the limit. Obviously, the natural parents of the child in care have real problems of their own. There are problems with the number of foster carers, with the number of social workers and, naturally, with the parents. Those are three of the four elements that appear in the Fostering Network's partnership aims, with which all parties in the chamber agree.

I welcome the Executive's intention, as stated in the motion,

"to invest in the future of the fostering service to increase the number of high quality placements".

However, that phrase would seem to be a tacit admission that there is a degree of variance in the quality of foster care that is on offer. That alone demands improvement.

There is a simple, low-cost, family-friendly way of bringing about improvement. Several members, notably Donald Gorrie, Robin Harper and Christine May, have already touched on the issue. Currently, where there is no option except to take a child or children into care, the wider family of that child or those children is sometimes treated with something that borders on suspicion, but it may have a huge amount to offer. I believe that the wider family should be prioritised by the authorities to the extent that, where acceptable, the first choice for the care of children under consideration should be to place them in the protection of their wider family. That would not be practical or desirable in every instance. However, this week I was pleased to meet the group Grandparents Apart and I have also met a number of grandparents in my constituency who are desperate to help to bring up their grandchildren but are effectively estranged from them. I have no hesitation in stating that in many instances the wider family could and should play a far greater role than it is currently able to play.

**Scott Barrie:** Does Alex Fergusson accept that the Children (Scotland) Act 1995 states that, before any child is removed from its home and placed in public residential or foster care, all options—especially family options—should be explored?

**Alex Fergusson:** I respect the background and experience that Mr Barrie brings to the debate and am aware of the provision to which he refers. However, constituents' experience suggests that it is not being used as much as it should be. That is where I am coming from.

An emphasis on the role of the wider family would ensure—as is obviously intended—that the child was kept in the heart of the family, on which the Executive rightly places such strong emphasis. It could make up for a large percentage of the acknowledged shortage of foster carers and would serve the ultimate well-being of the child, the family and, possibly, the natural parents concerned.

Given the Fostering Network's recent statement that 91 per cent of local authorities are receiving funds at a level below the organisation's recommended minimum, it is absolutely correct to examine rates and funding. I hope that the minister's announcement today will allow a genuine improvement in this selfless service to take place. I fear that the £12 million may simply begin to close the gap. If the minister embraces actively the immediate wider families of these poor, disadvantaged children, a genuine improvement can be achieved. I welcome today's motion.

11:06

**John Swinburne (Central Scotland) (SSCUP):**

I have every confidence that Euan Robson will achieve his aim of bringing fairness into the fostering of children and into the attitude towards kinship carers who look after their grandchildren. The minister has worked and continues to work tirelessly on behalf of children in foster care, despite the fact that the outcomes for grandparents who care for their grandchildren because of drug and alcohol problems are not always those that we require.

It is essential that children should go to their grandparents. Kinship care is very important. Over the past 18 months we have met various groups. Some of the £12 million that the minister has promised must go to offset the traumatic hardship that is imposed on kinship carers, whose grandchildren are foisted or dumped on them by social workers. Those are the carers' words, not mine. In their opinion—not mine—social workers sometimes take the soft option and place children with their grandparents, instead of finding other foster care places for them. The Executive has set an acceptable level of financial support for kinship carers, but far too often carers get no financial assistance. The Executive must ring fence the money that is given to councils, to ensure that the money that kinship carers deserve reaches its destination.

Bill Aitken delivered a studied, logical speech on the problems of fostering. I enjoyed his reference to the culture of political correctness that arises all too often in this area. Often a grandparent does not have the legal qualifications that a fosterer requires, but they can bring other influences to the upbringing of the child. However, not every grandparent is a suitable person to foster children—some do not have the necessary capabilities.

Scott Barrie highlighted the consensual approach that is essential in this area. It has been good to see consensus across the Parliament this morning.

Every effort should be made to reduce the need for children to go into residential care. As Robin Harper highlighted earlier, much more work is also needed to ensure that children from broken homes and similar situations do not have to be placed in foster or kinship care. As was mentioned earlier, there are 4,500 foster carers and we are still about 700 short.

When I met a delegation of kinship carers the following points were raised. They stated that they aim to improve the quality of life for people in their situation and that they are campaigning for improved recognition, services and support. They also want to organise social activities and offer

mutual support. One of the carers highlighted the fact that advice on welfare rights and benefits is crucial, as money is needed while benefits are sorted out. It is sad that often no benefit comes to the kinship carer. It is hard enough for a grandparent who is a pensioner to exist on their pension without having one, two or more children put into their care. As a caring society, we have to do better than that. The minister recognises that and he is taking action. The carer also stated that a

"clear statement of how the social work department will support the family in the long term should be made at the start".

Too often the family do not receive that clear statement when they need the information. The carer added that

"Information on support services and groups should be provided"

and that a list of useful contacts and telephone numbers would be of assistance.

Another carer said that little assistance is provided and that making discretionary payments is not good enough. She is looking for

"regular universal payments to grandparents and relative carers"

that are similar to those given to a foster carer. It is not acceptable that a grandparent gets nothing and a foster carer can get between £60 and £150 for looking after a child. Many have given up employment or cannot look for employment because of the parenting duties involved in the foster caring that they do for their grandchildren. As another carer said, they recognise their responsibility to the children, but they need support from the Government.

Another carer said that the services that exist are good but that more are needed. The health and age of many grandparents mean that respite is urgently required. It is all right for people who are in their 20s and 30s who are bringing up kids, but for people who are 50, 60 or 70, bringing up children can be a traumatic experience. More emphasis must be placed on respite care to give those people a break. That is very important.

Euan Robson has taken those points on board and has sent a strongly worded letter to every local authority chief executive in Scotland. The letter states:

"I have received a number of representations, generally and particularly on the subject of allowances, recently from families who care for a relative's child. This concept is often known or referred to as kinship care. There appears to be a significant difference across the country in the way such cases are dealt with, therefore I am writing to remind you of the guidance that exists on this subject ... Volume 2 of the guidance on the Children (Scotland) Act 1995 states that for children who are either already known to the social work department or whose parents have approached the social

work department for help, the social work department may play a role, by agreement with the parents, in facilitating or supporting a child to live with his or her relatives either by helping to negotiate the arrangement or providing some financial support or both. The child is not looked after by the local authority in either of these situations and the carers do not need to be approved as foster carers."

However, those relatives need financial assistance. An unacceptable example is that of a grandparent who applied to the social work department for help and had to wait for 13 weeks to get a single bed for a 13-year-old girl to lie on—she had been sleeping on the floor. We have a long way to go, but I have every confidence in the minister to take up the cudgel on behalf of all those children. I think that he will get support from across the board.

11:14

**Mr Frank McAveety (Glasgow Shettleston) (Lab):** I congratulate members on the rash of unanimity that has broken out in the chamber. Frances Curran even made a moderate demand in her speech—I hope that Tommy Sheridan still has enough influence in his party to knock such revisionist thinking on its head.

As the First Minister identified, yesterday was an important day for public health in Scotland. Yesterday's debate on smoking was covered in the newspapers today and in the media last night, but in many ways the smaller things are equally important. Today's debate makes it clear that where there are issues on which there is agreement among parties and individuals—including independent members and single-member parties—we can do something different. Those of us who cared about the creation of a Scottish Parliament when it may have been unfashionable in our parties to do so believed that we could make a difference. We believed that there would be space in the timetable for legislation and that there would be a chance to bring together key opinion formers from inside and outside the system and give them the opportunity to articulate the arguments effectively.

In the speeches that members have made this morning there has been a sense that we can influence the situation. I welcome the announcement by the Executive of additional resources to address issues that for far too long were considered Cinderella issues or were not considered important enough to be developed. Nothing is more important than to try to deal with the uncertainty that is created in young people's lives by whatever happens in their family circumstances. There has been a seismic change in the social experience in Scotland over the past 25 years because of the implosion in many respects of family life and the impact of addiction, whether that is alcohol addiction, which is still

prevalent in my constituency in the east end of Glasgow, or drug misuse, which is increasingly prevalent.

As John Swinburne said, we must recognise the role of families. Where I disagree with him is that I think that it is right to place children with family members, where that is appropriate. The issue that he subsequently raised, from my understanding of his speech, was that we would need to provide more effective support for those grandparents. Where local initiatives have been taken, for example in Fife, there have already been welcome developments. Donald Gorrie touched on the kernel of the debate, which is that there is some very good local practice but it has not been shared throughout Scotland. If the Scottish Parliament can do anything, it can throw the debate into the public arena and identify, both through the public debate and through the provision of resources, ways in which we can address that issue.

I think that we need to have what we call the four Rs. There are three Rs for education—in fact there are only two, although the various problems with literacy might suggest that "writing" starts with an R.

**Scott Barrie:** There is only one that starts with an R.

**Mr McAveety:** Sorry. There is only one. That show why I was an English teacher rather than a maths teacher. I thank Scott Barrie.

There are four Rs that are required to make this noble debate even more effective. The first is recognition. The key issue that many members have raised is that we must recognise the value of the work that individuals do. The second is recruitment. We must ensure that we recruit sufficient foster carers and that the number of foster carers increases. Part of what is needed is to recognise the value of the work that is undertaken, but it also involves demonstrating to folk that if they are recruited as foster carers, they will not find themselves economically disadvantaged or put under financial pressure. The third is how we retain those skilled and experienced individuals, not only to enable us to have a sufficient number of foster carers but because they are useful allies in encouraging other people to be recruited and can play an effective role in the training and development of those people. The fourth is restoration, to ensure that the youngsters are placed back within the stable family unit that can be developed. We must address that issue.

We must deal with three or four fundamental issues. I hope that the resource allocation that the minister has announced can assist with that process. One issue is the support that is required

for social work and children's services. Historically, too many authorities have depended on residential care. That has certainly been the experience in Glasgow, partly because of recruitment pressures. We also need to address the issue of assessment as too many social work units and departments are under pressure, largely because of the economic and social experience of the communities that they serve. We must find ways to provide support in those areas to improve recruitment and reward more effectively staff who operate within such a pressured environment. In my constituency there are hot spots where there are great difficulties but also great opportunities; although the experience is at its rawest there, such experience can make a real difference in professional development.

The second big issue that we need to address is how we support volunteers. I welcome what the minister has said today about providing much better support for them and ensuring that they have access to learning. One of the key messages is how we can use other tools to provide learning, not only for current volunteers. We can use distance learning and support courses to ensure that people who are located in remote areas can be given broad support, advice and encouragement.

The third issue is economic—ensuring that people are provided for. Good local examples have developed across Scotland and we should use those as a national template. I welcome the briefing note that the British Association of Social Workers provided for us, highlighting ways in which we might make progress. I hope that the minister will continue to address such issues.

Another fundamental issue is kinship carers and the support that we must provide to grandparents, in particular, who have taken on the care of their grandchildren. In my constituency, a number of organisations find themselves under financial pressure when addressing such issues.

We should never undervalue the work of foster carers and the people who support them. It is a noble commitment. I have benefited personally from the work of foster carers—the work of an elderly foster carer in the case of our daughter and the work of a younger family in the case of our son. Those people have provided support and the amazing thing is that they still take a genuine interest in the welfare and development of all the children whom they have had under their care. That is testimony to the kind of commitment that people can bring.

If we want to make a difference in Scotland, the resources—welcome though they are—must be part of a shaping and influencing of policy. How do we get information out to as many individuals as possible to ensure that we address recruitment

and retention issues? More important, how do we demonstrate that we are making a difference? This morning's papers were full not only of yesterday's debate on smoking but of a survey that showed that people felt that the Parliament had made little or no difference to their lives. If we address the issue of fostering well—and, as the minister suggested, do things better—we can make a genuine difference for children in the future. I welcome the minister's commitment and, more important, the unanimous support of Parliament in the endeavour.

11:22

**Robert Brown (Glasgow) (LD):** I apologise to the chamber for coming in slightly late—there was a points failure at Cowairs while I was on my way here on the train. I did not hear all of the minister's speech.

I declare an interest as a member of the Law Society of Scotland and as a consultant with Ross Harper solicitors in Glasgow. I declare that interest because the firm has been involved in one or two cases in which issues of fostering and grandparents' allowances have come into focus.

The subject of fostering and looked-after children is vital. Like others, I pay tribute to those who take part in that challenging activity. It is always interesting and productive to listen to people who are experts in their field and Scott Barrie's speech gave us considerable depth of detailed professional knowledge. The debate has been of high quality.

We should not forget residential care, because 1,500 children still live in one form or another of residential care. The issue ought not to become a neglected cul-de-sac. Not least because of the pressures on foster care, residential care will continue to have a place—although, as people have pointed out, we hope that its role will diminish. However, the benefits of a successful placement are obvious. Nevertheless, they are worth stating. The child protection report, "It's everyone's job to make sure I'm alright", pointed out that when children were placed successfully in foster care, their circumstances—in particular, their material and health circumstances—often improved.

As has come out in a variety of this morning's speeches, the key is stability. One hears of tragic cases of children with a long trail of failed placements. A successful and stable placement may require a lot of skill and dedication from the foster-parents, but it will give the child—who may have been abused or neglected in the past—a chance to recover and develop.

The alternative is stark. A UK survey has shown that young people who have been in care are 60

times more likely to be homeless, 50 times more likely to be sent to prison and 88 times more likely to be drug abusers. In the Education Committee's child protection inquiry, we were told that one in 56 births in Scotland is to a drug-abusing parent. Those are horrific and shocking statistics. If we consider the issue the other way round, we see that 38 per cent of young prisoners and 30 per cent of young single homeless people have been in care. Those statistics are on top of, and connected to, the figures that other members have mentioned showing the greater risk of exclusion from school, of having additional support needs, of a lack of qualifications, of future unemployment and of mental health problems.

There should be no great surprise in any of those findings, but they show the scale of the challenge and of the dividend that could result if society and improved arrangements make any impression on the life chances of the most needy and deserving of our young citizens.

I vividly remember meeting, about two years ago, some care leavers at a Scottish throughcare and aftercare forum. They all wanted to be social or youth workers. They had been there, read the book and seen the film. They knew what young people in care went through and believed, probably rightly, that they were as well placed as anybody to support and help those who came after them. They were also a tribute to the triumph of the human spirit in adversity.

How can we help? I have a number of points that I would like the minister to respond to. In some respects, they echo points that others have raised. The first point is that there is a great resource in grandparents, whom we do not properly support. Many grandparents take over children from a drug-abusing daughter or son. In an overwhelming number of cases, they are in necessitous circumstances themselves.

The Executive's review of services for vulnerable families with young children found a lack of practical and financial support for family carers, little support for people wanting to acquire parental or adoption rights, and often little or no financial support. An allowance can be paid by the local authority but it is discretionary. In any event, the amount of the allowance apparently varies between local authorities, as we have heard. I strongly welcome the input of resources that Euan Robson announced, but it is high time that this issue was sorted out. Local authority discretion is all very well in its place, but I struggle to find a satisfactory reason why fostering allowances should not be standardised across Scotland and why grandparents should not be supported like other foster carers—probably on the basis of need. The Scottish Executive's own guidance says that the child-rearing costs incurred by

grandparents are unlikely to be very different from the costs incurred by anyone else. I appreciate that there can be difficulties in organising support for grandparents, but those difficulties have to be tackled—not least because tackling them will take pressure off fostering in the more, as it were, professional sense.

The second point that I want to put to the minister relates to skills support for foster carers. Bill Aitken rightly said that the issue is linked to that of fostering allowances. I am not sure what support and training are given at present—we heard something about that from Scott Barrie—but it is neither an easy nor an amateur matter to take on a child, with the traumas that they often have as a result of their previous life experiences. We must provide more targeted skills support, based on good evidence of what works, to foster-parents and to children's homes.

**Robin Harper:** Does the member accept that we could also do more to support young parents, in line with Susan Deacon's recent motion?

**Robert Brown:** Robin Harper makes a good point. These issues do not exist in a cul-de-sac but are part of a spectrum of social issues. The least-harm principle very much supports Robin's point. If we can impact on the risk factors that lead to lack of achievement, low take-up of educational opportunities and the threat of homelessness and criminality, we will make a big difference.

The final point that I would like the minister to address is on throughcare. Young people in care do not suddenly become competent and independent at the age of 16. They are like other teenagers. They need continuing and familial support, they need driving lessons and guitar lessons, they need someone to tell their problems to and they need someone to do the myriad supporting things that parents do, even for allegedly grown-up children. They need someone to be there for them and to keep an eye on them. In many cases that happens, but in some cases it does not. There must be an effective, dynamic and flexible care plan that carries people through to adulthood.

I welcome the promises in the Executive's motion, which talks of "high quality", "resources" and a "fair ... system of allowances". Far more than in most political topics, ministers and MSPs have a heavy responsibility to do more than their best to ensure that those things happen. I support the motion.

11:29

**Dr Elaine Murray (Dumfries) (Lab):** I am pleased to sum up in the debate. As others have said, there is a clear consensus in the chamber on the value of foster carers—although I agree with



Donald Gorrie that that probably means that the media will pay absolutely no attention to the debate, because they prefer our rows.

It is good that approaching a third of all looked-after children are being cared for in a family setting. That can mean anything from an overnight stay in a crisis or short-term fostering to a longer-term relationship in which a young person is also able to maintain a relationship with their natural family. I was pleased that the minister was able to refer to the fact that 80 per cent of foster-children have contact with their natural families. I think that Frank McAveety said that he particularly appreciated the interest that foster carers continued to have in his adopted children.

Scott Barrie mentioned that he was the chair of a fostering panel in a previous life. I served on the adoption and fostering panel of Strathclyde Regional Council and chaired South Ayrshire Council's adoption and fostering panels. I was always surprised—but not for bad reasons—by the rigour of the vetting that foster carers and adoptive parents had to undergo, which involved consideration of reports from social workers and other professionals, such as medics, and fairly intensive discussion among panel members about whether the people in question were suitable. That was done for all the reasons that Andrew Welsh articulated.

As elected members, all of us have come across many sad things in our time. From my days on Strathclyde Regional Council, I always remember being made aware of an adoption placement that had broken down. Not only had the young woman's relationship with her natural family broken down, but she had gone on to have a failed relationship with an adoptive parent. Robert Brown mentioned people who have gone through many placements. That is why it is important that people who foster or adopt are the most suitable parents for the young people concerned. I concur with what Scott Barrie said about distant placements. In some of the former regional councils, such placements were a problem in that they did not help young people to maintain their relationships with their own communities.

I welcome the £12 million that will be provided over two years to improve allowances and to further increase the proportion of looked-after children in foster care. That will enable young people to get the support that will allow them to achieve their potential. I note the statistics that show that 67 per cent of children in foster care achieve standard grades, whereas only 29 per cent of children in residential care do so.

I also welcome the support that will be provided for training, which will mean that the very complex skills that foster carers require and manage to develop in the course of their work as foster carers

can be accredited. I know that the Fostering Network already offers 112 courses, in which 1,400 participants took part in 2003. Level 3 Scottish vocational qualifications are offered, but we want to build on such accreditation so that it becomes more recognised. I certainly hope that the measures that have been announced today will address the shortfall of 700 places that the minister referred to in his speech.

A number of members mentioned kinship carers and I am pleased that the ministers have written to local authorities about that. A constituent of mine who cares for her sister's three children—unfortunately, her sister had an addiction problem and was unable to look after her children any more—as well as her own children came to me because she was having difficulty in getting financial assistance to build an extension to her house. Rather than receive a sympathetic response to her request, she was told that her own children, who were a bit older, would grow up.

Scott Barrie made an interesting point about how foster carers must relinquish the role that they play. Those of us who have children who have grown up into adults sometimes have difficulty in relinquishing our role in looking after them. How much more difficult that must be for people who have put so much care and attention into looking after a young child or a baby and the child goes on to another placement. It is important to acknowledge their situation publicly.

Christine May and Frank McAveety stressed the importance of maintaining the family unit, which often involves the provision of short-term fostering support. As Christine May said, respite care is especially necessary for children who have profound needs. I want to mention the good work that Quarriers does in my constituency of Dumfries and in Galloway. It offers respite care for parents of children with emotional and behavioural difficulties or physical disabilities and so enables them to maintain the family unit.

Alex Fergusson spoke movingly about the feelings that young people have when their families break down, but I should mention that looked-after children are not necessarily removed from their families; many young people are looked after and supported within the family unit. We do not want people to think that because children are looked after they carry the stigma associated with children being removed from their families.

In relation to John Swinburne's speech, although it is unusual for me to praise the Conservatives, I want to say that the Children (Scotland) Act 1995 was a good piece of legislation. It does not force caring duties on relatives who are unwilling or unable to provide them; it means that any relative who is able to provide such care is looked for before non-relatives are sought.

Frank McAveety mentioned the four Rs. Given that he was an English teacher, I was a little concerned that he apparently does not know how to spell "writing". The four Rs of recognition, recruitment, retention and restoration offer a good, succinct way of examining the issues. I concur with Frances Curran, who made the important point that foster-parents do not have to form a nuclear family, as many other people have the right skills and abilities to provide a stable home to young people from a variety of different backgrounds.

I am happy to join all the members who have acknowledged and praised the work of foster carers, and I wish the ministers well in their forthcoming action to increase the number of foster carers in Scotland.

11:35

**Mary Scanlon (Highlands and Islands) (Con):**

We agree with the points that the minister made. On behalf of the Scottish Conservatives, I give our support to any measures that will help to address the many issues surrounding fostering that have been raised in the debate.

There is no doubt that fostering is a vital service provided by dedicated people, as the minister said. We endorse the principle that foster-children deserve the same chances as other children, but I remind the minister, as he considers his audit and review, that COSLA produced a report in 2000, the conclusions of which many members have mentioned. I will read out a quote about that report:

"A CoSLA report on Foster Care suggests that teachers' low expectations are a factor in low achievement ... studies of children who had grown up in care and been educational successful have been critical of social workers, carers and teachers for stereo-typing looked after children as low achievers."

I think that that merits further investigation. The quote continues:

"The most consistent response from the high achievers was that they felt unsupported by social workers, care staff and teachers. Their ability had not been recognised or their achievement valued by social work staff and at school they experienced discrimination by teachers and bullying by peers."

I ask the minister to ensure that his audit and review take into account the conclusions of the COSLA report.

Many members have mentioned kinship care, but a look through the Scottish Commission for the Regulation of Care's standards, "national care standards: foster care and family placement services", has led me to wonder whether kinship care falls outside the category of fostering. If that is the case, does it also fall outside the category that qualifies for training, financial support and

advice? The minister should consider that as part of the review.

The provision of £12 million is welcome but, as the Fostering Network's survey shows, foster carers in 91 per cent of Scottish local authority areas are receiving sums that are below the organisation's recommended minimum rates. That means that their fostering expenses are not being covered, so foster-children are being short changed and carers are, in effect, subsidising the state. That is in spite of the existence of the national care standards that the Parliament agreed to when it passed the Regulation of Care (Scotland) Act 2001, which state that all carers should be reimbursed for the full costs of fostering.

While listening to the debate, I have been flicking through some of the national care standards. I hope that members will bear with me if I mention some of them.

Standard 3 relates to Andrew Welsh's excellent point on individuality. It says:

"your identity and self-esteem will be valued and promoted."

Under the care standards, the care commission regulates

"issues of diversity, including sexuality and lifestyle choices."

Although that is the case, few members have mentioned the care commission's role—the minister did not—and I look forward to hearing about it.

Christine May made some excellent points about health care. Standard 2 talks about

"the provision of good quality care"

and mentions occupational therapy and psychology, which Christine May referred to. We have had the national care standards for three years, so why are we all so concerned? We need to ask whether the care commission is examining the standards of fostering that local government is responsible for as vigorously as it examines the standards in private care homes.

Standard 8 talks about the care commission's commitment

"to developing, preparing and training foster carers"

and to ensuring

"that they work within its standards, policies and guidance",

but successive members spoke about the absence of support and guidance.

If the fostering agencies, which are mainly our local authorities, are failing to provide foster carers with the standard of service that the care commission has set out, serious questions need to be asked, because the care commission is a

powerful Government organisation, and I fully support the work that it does.

Standard 9 states:

"you receive payments to cover the cost of caring for any children or young people placed with you. Payments are based on their needs and in line with the cost of caring for them",

but member after member has asked why foster carers are not being paid the amount that they deserve. The care standards have been set out and approved by the Parliament, but we allow the issue to carry on three years after the care commission was set up. We have passed the legislation; now we need the care commission to be more vigorous.

Standard 10 mentions

"clear published policies and procedures on all payments made, and ... information about the skills, training and qualifications that are needed for different payment levels."

Adam Ingram mentioned that only 11 per cent of carers have access to the proper qualifications. If they do not have access, what is the care commission doing to ensure that they are given support?

Standard 11 states that the fostering agency should have

"review systems in place to make sure that ... good quality care"

is provided. It also promises carers

"the facilities you need to meet the needs of children placed with you, including their ethnic, cultural, language and faith needs",

which covers the point on individuality that Andrew Welsh raised.

I ask the minister whether the care commission is really doing its job. Is it doing what we asked it to do: to ensure that all fostering agencies are adhering to the excellent standards that we have in Scotland? I will probably lodge some parliamentary questions on that, because the Parliament seriously needs to ask those questions.

One issue that must be addressed is the postcode payment system for foster carers. The Fostering Network recommends £108 for babies and £191 for over-16s. The lowest actual payments are made by East Lothian Council and Midlothian Council at £63 for babies and £126 for over-16s, which is a shortfall of £45 for babies and £65 for over-16s. In Scotland, only Glasgow City Council comes close to the recommended levels, as its payments are within £10 of them in each category. We might say that different payments are necessary throughout Scotland, but surely that is not so in our two major cities. Glasgow City Council pays £34 more per young child and £60

more per adult than the City of Edinburgh Council does.

The Presiding Officer is indicating that I should close now. I am sorry that I cannot say any more.

11:43

**Mr Kenny MacAskill (Lothians) (SNP):**

Nanette Milne prefaced her speech by indicating that she was worried about repetition. She went on to mention kinship care, among other matters that members have raised, but she should not have worried about repetition.

Frank McAveety might have had difficulty with his Rs, but he did not have difficulty with his rhetoric. In a debate such as this, there is an opportunity for unanimity and for us to agree a position as a Parliament that represents broader society. Clearly, the issue does not fit the pattern of party-political debates, because it is not a partisan issue. It has nothing to do with how members view the imperatives of the economy or the battle between capital and labour, but is about how members view society. I am glad that all members seem to acknowledge that the children about whom we have been speaking are our responsibility as a community, whether or not they are our blood relations, and that, as the elected Parliament in Scotland, it is our responsibility to address that.

The points that Frank McAveety made were correct. The outcomes of the Fostering Network's study might not make an earth-shattering difference to service delivery, benefits or the progress that we make in dealing with foster carers and those in foster care, but they make a significant difference to those people. They might not grab the press headlines, but to some extent, who cares? That is not why we are doing it; we are doing it to make a difference and to advance the interests of foster-children. Therefore, we should try to reach a view that will allow the Executive, the Opposition parties and councils of all political parties to go forward together, because it is not a matter of making narrow political points.

Earlier today, we had a moment of silence and reflection for the armistice and those who fell in the two world wars. Perhaps some members should have a private moment of reflection on the debate. Clearly, it has been about children who, in many instances, come from very difficult backgrounds and are troubled. We know that many of those children go on to commit offences and crimes. Some members could do with reflecting on why, when we debate the care and welfare of those children, we talk about troubled children who require care, assistance and support and about our endeavours to look after them, but when we discuss them in a debate on criminal

justice, we talk about hammering them, hounding them and dealing with them in this way or that way.

That is not to apologise or make excuses for bad behaviour, because I do not think that any member of any political party condones that, but we must acknowledge that an holistic approach is needed. There is no rubicon that is simply crossed at the age of 16. A troubled teenager from a difficult background—such as a home with a drug-offending or alcohol-abusing parent—who has faced all possible disadvantages does not suddenly, because of an offence that he commits the day after his 16<sup>th</sup> birthday, go from being a child for whom we should care to a child whom we no longer look after, whose troubles and tribulations we no longer try to deal with and whom we seek to hammer and do down. Of course we must have rules and regulations, but we must also have an holistic approach, and if we want to address not only the care and welfare of children, but the misbehaviour of many teenagers and young adults, we must have continuity and must ask that some people reflect on the need for sympathy.

**Christine May:** I accept everything that Kenny MacAskill says, but does he acknowledge that, although many children in the looked-after system go on to commit offences, many more do not? Does he accept that we should perhaps concentrate on what we are doing right that makes those children have positive outcomes and on how we can take that work into other care?

**Mr MacAskill:** Absolutely. Statistics that the Executive has issued show that a small minority of our children offend. Rather than prosecuting a war on a generation, we should try to address the problems of some within it.

The minister was correct to come at the matter by discussing where we could try to work together to create a better society. There is no clear, simple solution, but obviously we need to try to improve the level of finance that we commit to foster care. The points that Opposition members and back-bench members from the Executive parties have made on the Executive's position have been made with the intention of seeking to assist; it is a matter not of being difficult, but of seeking to make constructive criticisms. Cash is clearly a problem—my colleague Adam Ingram pointed out that the ADSW has referred to a shortfall of £150 million. The £12 million over two years is welcome and beneficial, but it fails by a long shot and leaves us significantly short. We must address that.

We must also take cognisance of the fact that there are social difficulties that we must address and demographic trends that we cannot avoid. I am talking not simply about the trends of an aging

population and a reducing number of children, but about the fact that there are changes to the nuclear family, which we must address. It is clear that one size does not fit all and that we need some flexibility. Adam Ingram correctly talked about a step change. We need to make a significant change because the society in which we live has changed under our feet. As the statistics that Christine May and others mentioned point out, the children who are in care now come in particular from drug-abusing parents. As I and others have stated in previous debates, drug abuse has changed our society fundamentally and we must address it.

The one point on which I disagreed with Bill Aitken was on our approach to adoption. There is an overlap, but fostering and adoption should be dealt with separately. There is a review of adoption, and that must be taken into account. Adoption is not necessarily the clearest solution in many instances. I hope that we will consider a more humane system of open adoption, which has greater flexibility, with long-term fostering.

It is clear from the debate that two aspects require to be addressed. One is the cash shortfall. We must ensure that we have sufficient resources for people to take part in looking after children. In particular, grandparents and others need to have the wherewithal to do that. Their opportunities are prejudiced. It is not acceptable for emotional blackmail to be used by local authorities, and that must cease. The minister, to his credit, has addressed that in his letter.

Fundamentally, we must develop respect in this area. It is not simply about remuneration. People carry out the job and the function of fostering because they believe that it is right and that it is something that they should do. They do not do it simply for financial reward. However, they do ask to be appreciated and respected, not to be denigrated or impinged upon with bureaucratic rules that are sometimes unnecessary and not to be treated badly. They need that respect, as well as any additional remuneration.

11:51

**Euan Robson:** This has been a useful and important debate. I am grateful for members' contributions, some of which have demonstrated their professional expertise and some of which have demonstrated considerable emotional commitment to the subject. Their contributions have been immensely helpful, and they will inform how the Executive takes matters forward in the future. I am pleased that the extra investment that we have made has been welcomed. It is a substantial amount, and I expect it to improve the lives of children and young people in foster care and of those who care for them. As I said at the

start of the debate, we need all our young people to succeed in life. We cannot afford anyone's talents or skills to be wasted. It is against that background that we make that investment.

I will now turn to the numerous points that members have made in the debate. I will not be able to cover them all, but I will try to get through quite a number. Adam Ingram referred to the step change that we need to make in this area, and I agree with him. I also agree with him that foster carers have a difficult task. He was right, too, about the necessity of investing in training and on-going support, which a number of others members also mentioned. We await the Fostering Network's audit, which is due to be published early next year, and we will need to address the issues that it raises.

Bill Aitken and others echoed the tribute that I made to foster carers. He mentioned the shortage of foster-care homes, and the investment that I have outlined today is meant to address that. He referred, as did another member, to low teacher expectations of foster-children. Let me make it quite clear that teachers should not have low expectations of any child. We should ensure that all children have the best possible start in life, whatever their background. If there are teachers out there with low expectations, that must change.

Bill Aitken also referred to matters around adoption. He will be aware that phase 2 of the adoption policy review group's work is under way. The group is examining how to provide security and stability to children in foster placements, particularly those in long-term placements. Kenny MacAskill mentioned issues around adoption, too. We will need to return to the Parliament once the review group has produced its report, which will raise a number of important issues for the Executive and the Parliament to consider.

**Scott Barrie:** Does the minister accept that we should not fall into the trap of automatic acceptance of adoption in the case of adolescents with a long-term stable foster placement, which may be the best placement for them? Will he accept that there are two distinct elements to the debate?

**Euan Robson:** That is quite correct. I endorse that point and the review will consider it.

In his speech, Scott Barrie addressed the variety of tasks that foster carers must undertake. We should not think of what foster carers do as just one activity. Foster carers' roles vary according to the child or young person who is placed with them. Foster carers will bring a variety of skills and expertise to their situation. Scott Barrie also made a telling point about the distance of foster placements from the natural home.

Donald Gorrie said that we should value foster carers. He said that they often feel isolated and unrewarded. We hope to host a reception for foster carers by way of a small token of thanks to them for all their efforts. We will do that in the spring, and the First Minister has kindly agreed to come—we will have to find a space in his diary. That is an important example of the recognition that the Executive and the Parliament can give to foster carers. Donald Gorrie also mentioned isolation, and there are a number of ways in which we can address that. The idea of having an internet conference for foster carers, through which they can share ideas, worries and concerns, is one that we could well develop.

Andrew Welsh made an important point about ensuring that a child's or young person's circumstances are stabilised. He also referred to throughcare and aftercare. I remind him that the throughcare and aftercare regulations came into force on 1 April this year. Their overall aim is to reinforce the responsibility of local authorities for young people who might have no other support at what is a difficult time of transition for them. We gave £10 million of funding over three years to assist local authorities. In addition, we provided £1.2 million to support a two-year pilot programme for care leavers with Columba 1400. We can talk more about that in due course, if Andrew Welsh wishes.

Robin Harper's contribution highlighted the educational achievement of looked-after children. I agree with him that there are some good examples of good practice turning trends around, which we will learn from.

I say to Christine May that I enjoyed my visits to Fife and acknowledge the work that is going on there. I would welcome an opportunity to go back there on another visit in due course.

Alex Fergusson referred to the shortage of social workers. In fact, there have never been more social workers in Scotland than there are at present. We have taken a great deal of time and trouble to ensure a further supply through an extended fast-track system, although I recognise that it will take some time before extra social workers arrive in local authority departments.

John Swinburne mentioned kinship care, as he has done before. He was kind enough to quote from the letter that I sent to local authorities on the important matter of allowances for relatives. I also said in that letter:

"Where relatives or friends are approved as foster carers for a child it is unlikely that the cost of caring for a foster child will differ markedly from that of other foster carers."

I encourage local authorities to recognise that fact.

Robert Brown made a number of important points, in particular about the fact that ministers have no power to set minimum rates.

As I said, this has been a useful and important debate. It has contained many valuable contributions, which we will take away and consider. We intend to return to Parliament in the spring with a further debate or statement, as appropriate.

For me, listening to foster-children and fostered young people has been one of the guiding lights of my experience during the past 14 or 15 months as Deputy Minister for Education and Young People. One young lady told me that she had been in eight different placements in eight years, from Inverness to Dumfries and back again. We must do better for those in foster care and for foster carers. I am guided by the thought, "What if it were my child?"

**Mary Scanlon:** Will the minister give way?

**The Presiding Officer (Mr George Reid):** No—the minister is closing.

**Euan Robson:** If I ask myself what I would want for my child in such circumstances, the answer can be only the best possible service, which our announcement today is working towards, and which we aim to achieve.

## First Minister's Question Time

12:00

### Prime Minister (Meetings)

**1. Nicola Sturgeon (Glasgow) (SNP):** I take the opportunity that is presented by remembrance day to remember all those who have lost their lives in war—soldiers and civilians—and to ask the Parliament to join me in conveying our deepest sympathies to the families of the soldiers who have lost their lives in Iraq in recent days.

To ask the First Minister when he will next meet the Prime Minister and what issues will be discussed. (S2F-1182)

**The First Minister (Mr Jack McConnell):** Before I answer that question, I echo what Nicola Sturgeon has said. It is unusual for us to meet on armistice day and we need to say not only of those who died in the first and second world wars and in conflicts since then, but of those who have died serving their country in the past week in Iraq, that we will always remember them and have their families in our thoughts. I absolutely assure those who are currently serving their country in Iraq that they continue to have my absolute and full support in the difficult task that they face.

I have no plans to meet the Prime Minister in the near future.

**Nicola Sturgeon:** Will the First Minister request a meeting with the Prime Minister as soon as possible in order to convey to him the anxiety of many people in Scotland about the deployment of the Black Watch in support of United States operations in Iraq?

**The First Minister:** I regularly discuss those matters with the Prime Minister and other United Kingdom Government ministers and, as I have previously said in the chamber, I have expressed a number of views to them about the position of the Scottish regiments.

I take a straightforward view on the deployment of British troops and Scottish soldiers in Iraq. Whatever anyone thinks of the initial decision to rid Iraq of Saddam Hussein, the Parliament's duty and responsibility is to support the British—and, in particular, the Scottish—troops who serve their country in Iraq in difficult circumstances. One of the worst things that we could do to the international reputation of the Black Watch in particular would be to withdraw the regiment from the important task that it is carrying out, which is ensuring that the people of Iraq are not beheaded and murdered by terrorists in their country. Our soldiers are helping to protect the people of Iraq from those terrorists.

**Nicola Sturgeon:** All of us in Scotland support the troops, but the politicians who sent them there deserve our condemnation. The myth that the decision to send the Black Watch to northern Iraq was a military decision has been exposed by the regiment's commander, who said that he hoped that the Government knew what it had got itself into but that he was not sure that it appreciated the risks that our soldiers faced. The truth is that the decision was political, not military, and it was taken by a Government that knew the risks only too well, but decided to press ahead regardless, simply because the US President asked it to do so.

On 28 October, the First Minister said in the chamber that, like us all, he hoped that there would be democratic elections in Iraq in January. Is he aware that, in a letter to the Prime Minister last week, the Secretary-General of the United Nations expressed the clear view that US military tactics in Iraq—including the assault on Fallujah—are hindering and not helping progress towards democracy in Iraq? Given that there are now Scottish soldiers in the firing line, will the First Minister urge the Prime Minister to start listening much more to the Secretary-General of the United Nations and much less to the President of the United States?

**The First Minister:** I have no intention of getting involved in an unseemly political debate on armistice day about the position of Scottish and British troops in Iraq, but I must respond to the points that have been made. I reiterate what I have just said. I remind Ms Sturgeon that innocent British and Iraqi civilians, aid workers and innocent Iraqis who have signed up to serve their country and potentially to provide it with its first-ever democratically based army and police force are being threatened with beheading and are being kidnapped. Their lives are being made hell by a group of terrorists who are trying not just to challenge the work of the British Army and that of other soldiers from around the world who are serving in Iraq, but—much more important—to undermine those who are currently trying to organise Iraq's first-ever democratic election.

The worst thing that we could do internationally, for the future reputation of our soldiers in the Black Watch and for the current situation in Iraq, would be to retreat from that challenge and to allow those individuals to win the battles that are taking place in the streets of Iraq. Anyone who thinks otherwise—and some of the remarks by certain London-based politicians over the past week have been despicable—is very wrong. Those people have never had to make a serious decision in their lives.

The sentiments expressed by Black Watch soldiers have been reported in some of our

national media over the past 24 hours. They say, "Back us in the job that we have to do. Don't undermine us when we are there." I certainly hope that everyone in the chamber will listen to those sentiments.

**Nicola Sturgeon:** Innocent Iraqi civilians are dying under American firepower while terrorist leaders escape. That is what Kofi Annan, the Secretary-General of the United Nations, has said runs the risk of further alienating ordinary Iraqis and that is what we all have to bear in mind.

Robin Cook, a London-based politician and also Labour's former Foreign Secretary, said yesterday that what the ordinary Iraqi civilians need to hear is that the US and other occupying powers will leave the country soon. In the interests of peace and democracy in Iraq, will the First Minister convey this message to the Prime Minister on behalf of the Scottish people: that there must be no more Scottish or British troops deployed in support of US operations in Iraq and that those US and UK troops who are already there should be withdrawn as soon as possible and replaced with a United Nations force that can begin to steer that country towards peace and democracy?

**The First Minister:** I do not want to get into an unseemly discussion on this most important of days. However, I have to say that those who have fought for their country in all kinds of situations over the past century, and who have fought not just for Scotland but for the British Army, and their families would be horrified at the prospect of our running up the white flag and allowing those who are trying to undermine the efforts to move towards democratic elections in Iraq to win. However, I do not think that they would be surprised that such comments and calls would come from a political party that has as its deputy chief whip someone who describes the flag under which the Black Watch fights in Iraq and elsewhere as the butcher's apron. For Bruce McFee, appointed by Mr Salmond and Ms Sturgeon as the deputy chief whip of the Scottish National Party, to describe the flag under which those men fight as the butcher's apron, not only once but twice in the past month, is shameful and calls into question anything that is said by the leadership of the Scottish National Party about supporting British troops in Iraq.

## **Cabinet (Meetings)**

**2. David McLetchie (Edinburgh Pentlands)**  
**(Con):** I associate my party with the gracious remarks made by Nicola Sturgeon and by the First Minister in relation to armistice day. We send our condolences to the families who have lost their loved ones in the conflict and our best wishes for a speedy recovery to the soldiers who have been injured and wounded.

To ask the First Minister what issues will be discussed at the next meeting of the Scottish Executive's Cabinet. (S2F-1183)

**The First Minister (Mr Jack McConnell):** At the next meeting of the Cabinet, we will consider our progress in relation to the legislative programme.

**David McLetchie:** Two weeks ago, I asked the First Minister whether he would publish the letter that he said he had written to Mr Hoon, the Secretary of State for Defence, on the subject of the six Scottish regiments. It would appear that he has not chosen to do so. Earlier this week, as the First Minister and everyone else will know, the spin coming out of Downing Street was that four of the regiments had been saved, but yesterday in the House of Commons the Prime Minister refused to confirm or deny that. All the scandalous spin and counter-spin on the subject means that our troops do not have a clue where they stand. That is bound to affect morale and our troops deserve far better than that. I ask the First Minister to tell the chamber what is going on. If he does not know, will he undertake to contact the Secretary of State for Defence again to find out?

**The First Minister:** I do not really have a clue what was going on in London yesterday, as I was concentrating on matters in the Scottish Parliament. I discussed the matter with the Prime Minister on Tuesday afternoon and made my views clear to him. I said that the continuing uncertainty over the future of the Black Watch regiment in particular required his attention. I also said that, when Scottish soldiers and other soldiers who are not Scots serve in the Black Watch under the British flag in the front line of duty for their country, they should have the certainty of knowing what their future will be when they return. I put those views to the Prime Minister and I believe that he will have taken them on board. I hope that a decision on these outstanding matters can be made as quickly as possible.

**David McLetchie:** The First Minister is absolutely right to highlight the concern that the state of uncertainty is causing to our soldiers, to their families and to people in the wider community in Scotland who support the campaign to retain our regiments. The issue is not simply about resolving the uncertainty; I asked the First Minister whether he would bring his political influence to bear on the Prime Minister in the process of achieving the result that the campaigners seek, which is, of course, to preserve the historic identity of our six Scottish regiments.

The First Minister was quick to intervene in this debate a few weeks ago, when, for the sake of a headline, he said that he supported the aim of preserving the regiments. Has he said anything of substance to the Prime Minister on whether we should have six historic Scottish regiments when

the Black Watch returns, or does he still believe, as he indicated a few weeks ago, that all the regiments should be merged into a single super-regiment?

**The First Minister:** Given the accusation that David McLetchie made in his first question that I had not published something that might get me a headline, to accuse me in his second question of headline seeking seems inconsistent. Some people have been headline seeking on the issue, including people who do not support the existence of a British army at all, never mind the existence of any of the regiments within it. Their hypocrisy is there for all to see.

It is important that I should be clear again. I believe that the identity of the six Scottish regiments should be maintained. Although that view does not seem to have strong support in the British Government, I have stated it before and I do so again today. I also believe that it is important that the current uncertainty should be cleared up as quickly as possible, particularly as our troops are in the front line.

I stress the point that I made earlier—it is important that our Scottish soldiers and other, non-Scottish soldiers who are serving their country in the front line of duty do not have to return to uncertainty about their position. They should not have to fight at such a time. I hope that the Prime Minister and the military chiefs, who I understand will make the decision, can do so as quickly as possible, make it public and ensure that the soldiers are reassured.

**David McLetchie:** If, as the First Minister said, the current view of the British Government is not that the identity of the Scottish regiments should be preserved, will he tell us what the view of the British Government is and what he is doing to seek to change it?

**The First Minister:** I said that that does not appear to be the majority view of those in the British Government at the moment. That would have been perfectly obvious to anyone who had watched the debate. Unlike the Conservative party, which was at it again yesterday, at least the British Government has a view that is consistent from one week to the next. Contrary to everything that the Conservatives have said in the Scottish Parliament and everything that Mr Howard and Peter Duncan have said, someone called Patrick Mercer—who is likely to be the minister for homeland security if, God help us, the Conservatives win the election that is to be held at some point in the next two years—said on “Good Morning Scotland” yesterday that he could not commit to the continued existence of six regiments in Scotland should there be a Conservative Government.



All that I ask—and I ask this from both main Opposition parties in the Parliament—is for a bit of honesty and consistency. If we can have that, we can have a sensible debate, in which we can do justice to those who serve their country and through which we can make them as proud of us as we are of them.

**The Presiding Officer (Mr George Reid):** We have two constituency supplementaries.

**Roseanna Cunningham (Perth) (SNP):** I have noticed that all the pictures from Iraq show that the Black Watch soldiers are indeed proudly fighting under a flag—everything that I have seen suggests that that flag is the Scottish saltire, not the union flag.

I listened carefully to what the First Minister said and his comments were as careful as my listening was. I ask him to go further. In response to Nicola Sturgeon, he expressed his concern about troops being undermined by a debate here in Scotland and in the UK. Does he not agree that the biggest single factor that is most likely to undermine the morale of the troops in Iraq is the threat of their regiment being disbanded when and if they return? Does he not believe that all of us should actively support and campaign on the demand to save Scotland's regiments?

**The First Minister:** With a few notable exceptions in our history as a nation and in the history of the United Kingdom, political parties in government and in opposition have taken the view that, whatever debates take place about the initial decision, should the country go to war or commit troops to the battlefield, those troops will get the full support of political parties once they are there. The one thing that undermines the troops, their morale and their security is the behaviour of those who this past week have called for them to retreat in the face of duty. That is a wrong call and it has undermined the position of the Black Watch.

I absolutely understand the feelings of the families of members of the Black Watch and the feelings of some in the regiment who I am sure are concerned about the uncertainty about the future of the regiment at a time when it is on duty in Iraq. However, I also understand that, when the troops are there, they need to have our full support—they need the full support of Scottish nationalists as much as they need the support of the rest of us who support the British Army.

**Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD):** I am grateful, as my constituents will be, to the First Minister for reaffirming his position in defending the integrity of the Scottish regiments. Will he say clearly to the Prime Minister that, whatever the outcome of the Army board review, the identity of the King's Own

Scottish Borderers and the Royal Scots should be retained?

**The First Minister:** Like other members, I have a slight constituency interest in this matter. I have a clear position on the six regiments and their identities, but I also recognise—I made this point two weeks ago and it does not in any way imply a lack of commitment to supporting the six identities—that decisions have to be made in the British Army about the way in which a modern army operates and the way in which people are deployed, so as to help those who join the Army and their families, as well those who have to run the Army and deploy it internationally. It is important that the decisions that are made are made rationally and on the basis of current conditions, as well as on the basis of the needs, desires and demands of recruits and potential recruits. However, my view is that it would be in the best interests of Scotland and of our local communities if the six identities were all preserved.

### Prime Minister (Discussions)

**3. Tommy Sheridan (Glasgow) (SSP):** To ask the First Minister what issues are the Scottish Executive's highest priority for discussion with the Prime Minister. (S2F-1199)

**The First Minister (Mr Jack McConnell):** I have already indicated the issue that was the highest priority for me to discuss with the Prime Minister this week.

**Tommy Sheridan:** I disagree entirely with the First Minister's argument that today, on armistice day of all days, we should not discuss war. Eighty-six years after the war to end all wars and 200 million more deaths later, we have a duty to discuss the issues to prevent any more lives from being lost in war.

On 13 March last year, the First Minister said:

"None of us wants unnecessary war and we all have concerns about the impact of military action on innocent people".—[*Official Report*, 13 March 2003; c 19434.]

Ten days ago, *The Lancet* revealed that the number of innocent Iraqi civilians who have been killed in the illegal invasion is 100,000. Does the First Minister now accept that the war was not only unnecessary but illegal?

**The Presiding Officer:** That is a reserved matter. I will leave it to the First Minister to respond as he sees fit.

**The First Minister:** I do not want to reiterate previous arguments. I say simply that if, even occasionally, Tommy Sheridan made points as passionately about the need to combat international terrorism, about any pleasure that he might feel—although he has hidden it well—about

the fact that Saddam Hussein is no longer in power in Iraq, or in support of the soldiers who serve the British Army in Iraq, the people of Scotland and those soldiers would take his position on the war more seriously.

**Tommy Sheridan:** That is a cheap shot in relation to Saddam Hussein, because none of those who opposed the war in Iraq was an apologist for Saddam Hussein's regime. On the contrary, those who opposed the war were the ones who opposed Saddam Hussein when successive British Governments were arming and financing him. The First Minister talks about the morale of Scottish troops, but does he acknowledge that the single biggest factor that undermines the morale of Scottish and British troops in Iraq is the fact that they are there under false pretences and on the basis of deception and lies? Will the First Minister support the growing call in Scotland to bring home the troops now to prevent any more blood from being spilled and any more hearts from being broken?

**The First Minister:** No. As I have said before, whatever views people might have had—many views from all parties were expressed in the Parliament—on the initial decision to go to war in Iraq as part of the multinational force, right now would be the worst possible time for British troops to pull back, given that two months from now there could be democratic elections and that innocent Iraqi, British, Irish and international citizens are being kidnapped, beheaded and terrorised. In that situation, it would send entirely the wrong signal if British troops were to pull back and let the people who are doing those things win. It is vital that, when people are given a job to do, they have our full support to complete it and to win this battle. The world will be a much better place as a result.

### Airport Rail Links

**4. Sarah Boyack (Edinburgh Central) (Lab):** To ask the First Minister what benefits the proposed rail links to Edinburgh and Glasgow airports will have for the tourist industry and our economy. (S2F-1193)

**The First Minister (Mr Jack McConnell):** Direct rail links to Edinburgh and Glasgow airports will be attractive to businesses and beneficial to Scotland's tourist industry and will help to reduce traffic congestion. Our investment in those key links will also ensure that Scotland is better placed to benefit from the growth in air travel that is expected over the next 10 to 20 years.

**Sarah Boyack:** I welcome the First Minister's positive reply. However, does he acknowledge that it is vital that we invest now in new rail, tram and station developments to ensure that people throughout Scotland and in Edinburgh and the Lothians in particular have access to high-quality

public transport choices that will allow them to access the new air routes and the major office developments without the whole area grinding to a halt, with the serious consequences that would result for business and the environment?

**The First Minister:** It is important that people have transport choices and that we tackle congestion in Edinburgh and invest, as we are doing, in improved transport links in and around Edinburgh. However, it is also important that we tackle what I believe is one of Scotland's international shames, which is that we do not have rail links to our two main airports. The commitment of this devolved Government to ensuring that those links are pursued will be welcomed the length and breadth of Scotland. I was absolutely shocked to hear that the Scottish National Party has adopted a new policy of opposing the rail link, as expressed by Fergus Ewing this week. It is important that on such a basic issue of infrastructure and services for Scotland we have support throughout the chamber to prove to the people of Scotland that the Parliament will make a difference.

### Fresh Talent Initiative

**5. Dennis Canavan (Falkirk West) (Ind):** To ask the First Minister what progress has been made on the fresh talent initiative. (S2F-1195)

**The First Minister (Mr Jack McConnell):** I am pleased to say that we have made considerable progress on the attraction of fresh talent to Scotland. We are working with the Home Office on the implementation of the new scheme, which will take effect from next summer, to allow overseas graduates to stay in Scotland for two years after the completion of their studies. We have established Scottish international postgraduate scholarships. The relocation advisory service is operational and our website continues to attract considerable interest.

**Dennis Canavan:** I congratulate the First Minister on introducing the fresh talent initiative. However, is he concerned that it might have only limited success? For example, is he concerned about the fact that, of the more than 90,000 migrant workers who have come to Britain from the new member states of the European Union, only 6 per cent have come to Scotland? Is he concerned about the fact that David Blunkett would rather lock up the many skilled asylum seekers who are already in Scotland than allow them to work? Will he consider what can be learned from the experience of Quebec, which has responsibility for immigration matters even though it is not an independent sovereign state?

**The First Minister:** I can confirm that we took on board the experiences of Quebec, the Australian states and a number of other parts of

the world when we put together the initial package of proposals that make up our fresh talent initiative. We continue to look for best practice elsewhere and for new ideas that will take us forward.

**Mr Kenny MacAskill (Lothians) (SNP):** I welcome the fresh talent initiative but point out the difficulties that are being experienced by Stevenson College Edinburgh, which has indicated that 18 per cent of international students that it has recruited this academic year have cancelled their study. Of that number, 31 per cent cancelled their study due to visa refusal. Does the First Minister agree that that is a case in which we should have powers over entrance to the country as well as entrance to the colleges?

**The First Minister:** Members will know that I have looked into the matter as individual cases have been raised in the chamber. As a result of that, there have been improvements in the way in which visa applications are handled in British embassies, particularly in relation to Scottish higher and further education institutions. However, there is a particularly persistent problem that we are trying to tackle with the assistance of the colleges and universities, which relates to delays that are caused when people fill in application forms wrongly. The best way of tackling that is for students to be given support and advice from the institutions that they want to study at before they go to the embassy with their visa application. That is a practical and constructive way forward that, as I saw recently in Beijing, is making a huge difference to the number of visa applications that are successfully processed on time. It is a system that will work elsewhere as well.

**Mr Duncan McNeil (Greenock and Inverclyde) (Lab):** Does the First Minister agree that, if we are to make a success of the fresh talent initiative, we must understand what attracts people to live and work in Scotland and what discourages them from doing so? What steps is the Executive taking to listen to the valuable insights that are being voiced on that subject by, for example, the 800 foreign nationals who are vital to the success of the IBM international call centre in Greenock?

**The First Minister:** The experience of the IBM centre is not only useful for Greenock and Inverclyde and our fresh talent policy, but an example that we can use internationally in our attempts to attract other businesses to Scotland. Indeed, in recent confidential discussions with a major international business that might locate in Scotland in the near future, we were able to use that example as part of our package of arguments to attract it to locate here. The IBM experience is great for the local area and for our fresh talent policy, but it also provides an example of how

successful a business can be in Scotland, which helps us to attract other businesses to come here.

### **Convention of the Highlands and Islands**

**6. Rob Gibson (Highlands and Islands) (SNP):** To ask the First Minister how the Scottish Executive will evaluate the effectiveness of the convention of the Highlands and Islands. (S2F-1187)

**The First Minister (Mr Jack McConnell):** The effectiveness of the convention can be partly shown by Government decisions that have been prompted by discussions at the convention. Recent examples of such decisions include the relocation of Government jobs to the Highlands and Islands; increased action on, and resources for, affordable housing; action to reverse depopulation and to attract fresh talent to Scotland; more direct air routes and other transport improvements; and continuing progress towards the creation of the university of the Highlands and Islands. Those and other examples show the effectiveness of the convention of the Highlands and Islands and of Labour and the Liberal Democrats in partnership in government.

**Rob Gibson:** Will the First Minister consider the effectiveness of his convention's agenda? He was not debating the repopulation of the remoter Highlands and Islands, where 90 per cent of young highlanders have no option but to find work elsewhere when they graduate. Will he identify for next March's convention meeting in Shetland how to stem that huge export of talent that could be transforming the economic potential of our area?

**The First Minister:** Mr Gibson should ensure that the office that I understand he has in the area where the convention of the Highlands and Islands was meeting on Monday pays attention for the whole day and not just the early part of it. On Monday in Thurso, not only was the convention of the Highlands and Islands meeting and discussing those important issues, but the initiative at the edge group of local authorities was meeting ministers and other agencies. That initiative supports the remoter parts and those areas of the Highlands and Islands that are under real pressure. At that meeting, the minister was able to announce additional resources for the initiative from our recent budget and therefore more support for proposals that will help to tackle the problem that Mr Gibson raises.

**The Presiding Officer:** That concludes First Minister's—

**Margo MacDonald (Lothians) (Ind):** On a point of order, Presiding Officer.

**The Presiding Officer:** You just made it, Mrs MacDonald.

**Margo MacDonald:** Thank you, Presiding Officer. Will you revisit the decision that you made when you informed me that you had considered whether there should be changes to the standing orders on how we conduct First Minister's question time? You said that you had considered the matter seriously and that on only two occasions since had something of a diversion been created instead of our having questions and answers. Will you revisit that decision in light of what happened today? All members will agree that today we had two question times: one that was relevant and in which we were all interested because there was an exchange of information and the First Minister was held to account, and one that served no useful purpose in the chamber. Will you revisit your decision to rejig First Minister's question time?

**The Presiding Officer:** I always consider carefully what comes back from the chamber. I shall do so again today.

**Rob Gibson:** On a point of order, Presiding Officer. Is it in order for the First Minister to mislead us by suggesting that my office should know what is going on at the convention of the Highlands and Islands when MSPs are not allowed to attend?

**The Presiding Officer:** I am not terribly sure of the details, so I will reflect on that as well.

12:32

*Meeting suspended.*

14:00

*On resuming—*

## Question Time

### SCOTTISH EXECUTIVE

#### Education and Young People, Tourism, Culture and Sport

##### VisitScotland (Funding)

**1. Mike Watson (Glasgow Cathcart) (Lab):** To ask the Scottish Executive how the recently announced new marketing funding for VisitScotland will be spent. (S2O-4002)

**The Minister for Tourism, Culture and Sport (Patricia Ferguson):** The 28 per cent increase over three years that we announced in March supports our ambition to grow tourism revenues by 50 per cent over the next decade. We will sustain that level of additional funding through to 2008, on the basis that it is matched by the private sector, thus doubling its effectiveness.

**Mike Watson:** The money has been much welcomed by the industry. How will it be targeted at areas such as business tourism, the short-break market and the route development fund? Specifically, how will it be targeted at the quality assurance schemes, which ensure that Scotland's tourism product—in the widest sense—is of the highest possible standard? The schemes are very important not just in attracting people to Scotland, but in attracting them back to Scotland.

**Patricia Ferguson:** The member will know that the route development fund is not administered from my portfolio. However, I am aware that during the past two years the number of direct routes into Scotland from other parts of the world has increased by 18.

VisitScotland's marketing campaign will be extended to include Northern Ireland and the midlands, as well as Sweden, Germany, France, Spain, Holland, Italy and Belgium.

The member is right to regard quality assurance as vital and we are keen to strengthen that area. For that reason, we have given £3 million over this year and next year to strengthen VisitScotland's quality assurance schemes. Those schemes already reach about 80 per cent of the accommodation and visitor attraction market in Scotland and we have set a target of increasing that figure to 90 per cent over the next three years. The marketing of major events such as the under-21 rugby world cup, the Heineken cup and the mountain bike world cup is important to that effort. We also hugely value business tourism.

**The Presiding Officer (Mr George Reid):** Question 2 has been withdrawn.

### Outdoor Education

**3. Robin Harper (Lothians) (Green):** To ask the Scottish Executive whether it is developing an outdoor education policy and, if so, when it will report on that policy. (S2O-4018)

**The Minister for Education and Young People (Peter Peacock):** I announced last month that I have asked Learning and Teaching Scotland to promote and support the development of outdoor education. Learning and Teaching Scotland is employing a development officer to drive forward progress.

**Robin Harper:** I understand that the development officer has not yet been appointed but will be expected to report in about two years' time. What will happen during those two years? A month ago, when the minister opened Kilbowie outdoor education centre at Oban, he said:

"Outdoor education can have tremendous benefits in the ... personal and social development of children of all ages, providing an important setting for young people to discover more about themselves and the world around them."

The minister continued by saying that he wanted

"more young people to experience the far-reaching benefits of outdoor education",

to enrich their school lives and develop skills and interests that would stay with them for the rest of their lives. How will the minister progress those ambitions over the next two years?

**Peter Peacock:** I am enormously encouraged that Robin Harper takes the trouble to read my speeches and I wish that others would do likewise.

I share with Robin Harper a commitment to outdoor education, which can enrich people's learning and challenge young people in a variety of ways, by putting them into new settings that allow them to grow personally. I am convinced of that, which is why we have encouraged Learning and Teaching Scotland to take the route that it is taking and why we will fund the development officer post. I do not expect to wait two years to hear about progress in relation to that post. The appointment will be made in the early part of next year and will involve a dynamic process around auditing and identifying gaps in the current provision in Scotland, identifying good practice and sharing it more widely, seeking links between outdoor education and the curriculum and using outdoor education as a vehicle for all forms of learning. The new curriculum that we seek through the curriculum review should open up possibilities for that to happen more constructively than has been the case in the immediate past.

I expect a lot of progress in the next two years. I look forward to Robin Harper continuing to grill me

on the issue, because I share with him the desire for improvement in that sphere of activity.

**Phil Gallie (South of Scotland) (Con):** Is the minister concerned about the deterrent effect on outdoor education of the wind forests that are being established, or are about to be established, throughout Scotland? As an example, I cite the 400 square miles of East Ayrshire that is destined to have 380 towers placed upon it, in a beautiful area of Scotland.

**The Presiding Officer:** The question is just acceptable. On you go, Mr Peacock.

**Peter Peacock:** I have always admired Phil Gallie's inventiveness, which the question demonstrates. I will not get drawn on the issue of wind farms. I look out from my house on to a wind farm and, personally, I find it attractive. It is artistic and I am grateful that it generates electricity in an environmentally friendly and sustainable way. In principle, I support wind farming and green energy—I want energy to be generated in a sustainable and environmentally friendly way. Notwithstanding what Phil Gallie said about Ayrshire and other parts of Scotland, there is still plenty of space for people to enjoy the outdoors in Scotland.

**The Presiding Officer:** Question 4 has been withdrawn.

### Primary Schools (Free Fruit)

**5. Ms Rosemary Byrne (South of Scotland) (SSP):** To ask the Scottish Executive why free fruit for pupils in primary schools is being withdrawn in some local authority areas. (S2O-3947)

**The Deputy Minister for Education and Young People (Euan Robson):** The implementation of the free fruit in schools scheme is a matter for local authorities. At national level, the Scottish Executive has increased allocations for free fruit by 50 per cent, beginning in the current financial year.

**Ms Byrne:** Will the minister confirm that short-term funding and lottery money have been used to fund the provision of free fruit in some areas? What response does he make to the school board chair who said:

"It took the teachers a long time to get the children to eat the fruit and now it's gone. So much for 'Hungry for Success', the flagship policy launched in a blaze of glory?"

**Euan Robson:** How very interesting. Whatever may be going on locally, the Executive has increased its funding by £1 million. Rosemary Byrne surely has enough experience by now to know that she can write to the Education Department to let us know of any local difficulties or concerns, which we will consider with local authorities. However, one contrary example does not obviate the policy.

**Mike Pringle (Edinburgh South) (LD):** The provision of fresh fruit is important and should be encouraged, and I congratulate the Executive on the scheme. However, what is the Executive doing to ensure that children get a healthy, balanced lunch, which for many children is their only decent meal of the day? Does the minister have information about the pilot project to provide lunches for kids in Dunbar Primary School, which I heard about at the weekend?

**Euan Robson:** Mr Pringle was good enough to tell me earlier about the project in Dunbar, which seems to be a useful initiative. In response to the report of the expert panel on school meals, "Hungry for Success: A Whole School Approach to School Meals in Scotland", the Executive has provided £57 million over three years to allow local authorities to develop healthy meals. We have also published new nutrient standards for school meals and detailed mechanisms for monitoring them.

### **Secondary Schools (Modernisation)**

**6. Mr John Home Robertson (East Lothian) (Lab):** To ask the Scottish Executive which local authorities have plans to replace, or comprehensively modernise, all their secondary schools. (S2O-3950)

**The Deputy Minister for Education and Young People (Euan Robson):** Through the preparation of their school estate management plans, all local authorities are considering the entirety of their school stock, as well as future investment needs and plans.

**Mr Home Robertson:** All local authorities may be considering the stock, but some local authorities are getting on with the job of modernising. It is a privilege to represent one of the most radical and forward-looking counties in Scotland. Will the minister join me in congratulating East Lothian Council on taking full advantage of the Executive's public-private partnership scheme to modernise comprehensively all six secondary schools in that county? Given that it has not been easy to teach and learn on active building sites, will the minister pay tribute to the staff and pupils there, who have had a difficult year? Does he agree that East Lothian Council did well to tackle the massive task through one contract, rather than prolong the agony over several years? Incidentally, what does the Executive intend to do about procrastinating councils such as Inverclyde Council?

**Euan Robson:** I am interested by the member's remarks. East Lothian Council has done well. There was a difficulty with the contract—the kind of difficulty that might arise in the conventional procurement process—but the council did well to recover from that difficulty, which was not of its making.

I recognise that East Lothian Council has six secondary schools; the fact that it is dealing with those schools will be useful for the education of children in East Lothian. I pay tribute to the staff, parents and children in any school that has to continue to work in an environment in which building is going on. As for Inverclyde, Mr Home Robertson will doubtless be aware that work is on-going in the present administration, which, he must remember, is dealing with a legacy of many years. It is now on track to deliver.

**Mr John Swinney (North Tayside) (SNP):** In the spirit of the cross-party unity that is evident on the Executive benches, I draw the minister's attention to the fact that his party and mine now have responsibility for the management of the schools estate in Perth and Kinross Council, where an imaginative proposal to renovate Breadalbane Academy in my constituency is under way. Is the minister supportive of the innovative proposals to ensure that a sustainable fuel system—a system that is particularly difficult to implement under a PPP contract—is used for the renovation of the school? Will he assist the efforts of the local authority to ensure that the school is able to be renovated with a wood-burning system, and to guarantee that it is a sustainable development for highland Perthshire?

**Euan Robson:** The member raises an important and interesting issue. We would be supportive of an innovative scheme. Clearly, the details of the contract are a matter for the local authority to pursue. However, ministers in the department are keen to share good practice and new ideas. We would therefore be interested to hear in detail what is entailed in that particular part of the project and whether there are lessons for other authorities. If there is an example that can be followed, we would be happy to spread that round the rest of Scotland.

**Marilyn Livingstone (Kirkcaldy) (Lab):** Does the minister agree that a good and proper learning environment is vital if we are to ensure that all our young people maximise their potential? Will he join me in congratulating the school boards, parents, students and staff in Fife Council on the work that has been undertaken in making innovative proposals for the complete refurbishment or replacement of Viewforth High School in my constituency? Further, will Euan Robson or Peter Peacock find time in their busy schedules to visit the school?

**Euan Robson:** Marilyn Livingstone raises an important point about a local situation. I am sure that Peter Peacock or I would be only too delighted to visit; perhaps she can let us know when that would be convenient. Overall, we believe that—as Marilyn Livingstone said—there has to be the most efficient and effective learning

environment for all Scotland's children. That is why we are investing £2 billion in the modernisation of the school estate.

### **Antisocial Behaviour (Schools)**

**7. Mr Frank McAveety (Glasgow Shettleston) (Lab):** To ask the Scottish Executive what assistance is being provided for teachers and head teachers to help deal with antisocial behaviour in schools. (S2O-3999)

**The Minister for Education and Young People (Peter Peacock):** There is a total of £29.48 million at education authorities' disposal for action to improve discipline and ethos in schools, and I am involved in a range of other initiatives with stakeholders in education to drive progress to improve behaviour in schools.

**Mr McAveety:** I welcome that commitment and the resources that have been made available. Does the minister agree that innovative projects can sometimes assist in dealing with antisocial behaviour in schools? One of the most innovative of such projects has been the placing of police officers within secondary schools in the east end of Glasgow, where police officers are working with staff to ensure that they tackle antisocial behaviour. In particular, in recent developments at St Mungo's Academy, police officers were involved in informing pupils of the new legislation on antisocial behaviour and worked with pupils and teachers in the school to address that issue. Does the minister welcome that initiative, and does he consider that it could be rolled out across Scotland?

**Peter Peacock:** I am happy to welcome that initiative. One of the depressing things about the way in which some of the Scottish media report such matters is the implication that the police are being brought in to control violence in schools. What is actually happening in Glasgow, in the way that Frank McAveety described, is that the police are being engaged in working constructively with young people to help to improve behaviour not just in and around the school, but in the wider community.

Frank McAveety is right to say that there is innovative practice; such practice can be found not only in Glasgow, but in other parts of Scotland. Work is taking place on restorative practices, solution-oriented schools, better motivation, and teacher empathy programmes. There is some great practice, which we want to encourage, because there are issues about behaviour in schools and we must keep bearing down on those issues.

**Mr Adam Ingram (South of Scotland) (SNP):** The minister will be aware of the work that is being undertaken in Glasgow with nurture groups in 29

of the city's primary schools. Given that early intervention has the best chance of helping children with social, emotional and behavioural difficulties to be socialised in the school system, will the minister undertake to evaluate the impact of those nurture groups with a view to either supporting education authorities elsewhere in Scotland that wish to introduce them or rolling out the initiative throughout Scotland?

**Peter Peacock:** I am more than happy to take a look at that. In the past few weeks, I have engaged with all the stakeholders in education in Scotland—the General Teaching Council for Scotland, teachers' unions, the Headteachers Association of Scotland, directors of education and local authorities—to do just that: to look at innovative practice in Scotland, consider what works best and ensure that we roll that out wherever appropriate. I have made it clear to all the stakeholders that if there is good practice anywhere in the world that we can bring to Scotland to improve what happens in our schools, we are more than willing to do that.

The member is right about early intervention. The quicker that we get into schools and encourage the positive behaviours that we want to see in society, the more impact that will have. That is exactly what is happening, from nursery schools right through early-years education and primary schools and now into secondary schools. We are talking with young people about pro-social behaviour and encouraging and rewarding such behaviour in our schools.

### **Tourism (Promotion)**

**8. Richard Lochhead (North East Scotland) (SNP):** To ask the Scottish Executive what measures are being implemented to ensure the effective promotion of Scotland as a tourist destination in the Republic of Ireland. (S2O-3973)

**The Minister for Tourism, Culture and Sport (Patricia Ferguson):** VisitScotland has always regarded the Republic of Ireland as an important market, so it promotes Scotland there in various ways. The increased level of marketing funding that the Executive made available to VisitScotland in March has allowed it to strengthen its marketing plans. As a result of that additional funding, VisitScotland plans to reach 75 per cent of the population of the Republic of Ireland as it works harder than ever to market Scotland there as a must-visit destination.

**Richard Lochhead:** I welcome the additional resources, but does the minister share my concern about the recent revelation that only a tiny fraction of the Irish people who visit the United Kingdom visit Scotland? Is that not because, in the past, it was VisitBritain and not VisitScotland that took the lead for promoting Scotland in Ireland? Is that not

a ridiculous situation, given our close historical and social ties with our closest neighbour and the results of a recent survey, which said that the most popular area of the UK for young Irish people is Scotland? Surely we should tap into that opportunity and ensure that VisitScotland, not VisitBritain, takes the lead.

**Patricia Ferguson:** We try to market Scotland in a variety of ways, one of the most important of which is through VisitBritain. A number of visitors to the UK make their way from, perhaps, London to Scotland, and Scotland is the second most popular destination for visitors arriving in the UK. It is entirely appropriate for us to work with our colleagues at VisitBritain, because that is how we can ensure that the money that we put forward for marketing is used most effectively. We will not always market Scotland on our own. There are times when it is effective to do that, but in this particular instance that is not the case.

**Mr Jamie McGrigor (Highlands and Islands (Con)):** The minister might be aware that in a recent survey by the Scottish Chambers of Commerce, three quarters of the respondents said that national marketing campaigns either had no visible effect on visitor numbers or led to a decrease. In the light of that devastating statistic, will she assure the Parliament that both she and VisitScotland will greatly increase its co-operation with the industry in deciding how best to use the new funds?

**Patricia Ferguson:** I read those statistics, but given that in the first six months of this year the number of visitors to Scotland from abroad increased by 12 per cent and the number of visitors from Europe increased by 25 per cent, I think that they might have to be looked at again.

### Sonar 2087

**9. Chris Ballance (South of Scotland (Green)):** To ask the Scottish Executive what assessment it has made of the impact on marine wildlife tourism of the trials or use of Sonar 2087. (S2O-4016)

**The Minister for Tourism, Culture and Sport (Patricia Ferguson):** The Scottish Executive has made no assessment of the impact of type 2087 sonar on marine wildlife tourism. The testing or use of military sonar is a reserved matter that falls within the responsibility of the Ministry of Defence. I understand that research by United Kingdom Government departments is on-going to investigate the effects of acoustic disturbance, including sonar, on marine wildlife.

**Chris Ballance:** Marine wildlife tourism in Scotland is growing but is threatened directly by the development. When will the minister's

department have an opinion and something to say to the UK?

**Patricia Ferguson:** The subject is a reserved matter, but I understand that there is no evidence that the system will have the effect that Mr Ballance claims. The Scottish Executive works closely with the UK Government on a range of matters. If we have cause for concern, we will take it up.

## Finance and Public Services and Communities

### Supporting People

**1. Mr John Home Robertson (East Lothian (Lab)):** To ask the Scottish Executive whether it will make a further announcement on the distribution of the budget for the supporting people initiative. (S2O-3951)

**The Minister for Communities (Malcolm Chisholm):** I have met the Convention of Scottish Local Authorities several times and listened to its concerns. I hope to make a new announcement shortly.

**Mr Home Robertson:** I accept that the distribution of the supporting people budget is distorted at present because some councils failed to take up their share of funding in the initial stages, but does the minister agree that it would be unjust and wrong to withdraw care arrangements from extremely vulnerable people in areas such as East Lothian because of delays that occurred elsewhere? The minister's so-called compromise of an 18 per cent cut would have that effect in my constituency and, I suspect, in Edinburgh, too. Will he consider further COSLA's proposal for a fairer and less damaging solution? He has a duty to address the matter seriously.

**Malcolm Chisholm:** I disagree that COSLA's final proposals are fairer, because they would involve very slow movement towards the new formula. We have a problem, because nobody is saying that the formula is wrong. It is based on the numbers of elderly people, disabled people and homeless people and—crucially—on deprivation. If we go towards that formula very slowly, we will have a problem of unmet need and an equal number of authorities will complain that they are losing out.

We must strike a balance. The new formula is right, but I have been willing to slow the process of transition towards it, which is the right balance to strike. I await COSLA's final response to my proposals.

**Ms Sandra White (Glasgow) (SNP):** Is the minister aware of the concerns about the level of service that have been expressed by clients—in



particular, people with learning difficulties and learning disabilities—of agencies that access the supporting people fund? Will clients' satisfaction with the support services that they have received under the initiative be audited?

**Malcolm Chisholm:** I am sorry; I did not hear the whole question.

Funding for the supporting people initiative has doubled in the past two years. People are saying that there has been a bit of a cash pull-back in the review that was undertaken, but we should remember that the funding is still double what it was two years ago and is twice the figure per head in England, which is a relevant factor. The sums of money are significant. As part of the new formula, all services will be reviewed and providers and councils will be involved in that review. Some of the information that Sandra White seeks will emerge through that.

**Des McNulty (Clydebank and Milngavie) (Lab):** I am sure that the minister is aware of the genuine and justified concern in West Dunbartonshire about the impact that the proposals would have on the local authority there, especially because the council and its staff were encouraged down a route for which the rules have changed. Will the minister agree to meet Jackie Baillie and me to discuss our concerns about potential redundancies and the service withdrawals that might ensue from his proposed changes?

**Malcolm Chisholm:** I am always willing to meet Des McNulty and Jackie Baillie, and I will certainly meet them to discuss the subject. The West Dunbartonshire situation illustrates the issue. Spending per head there is £235, which is way beyond the Scottish average of £92.

There is an issue about the way in which the fund is not based on any needs formula. That issue had to be addressed. We have to move towards the formula but slow down the process of change that was originally planned.

**Alex Fergusson (Galloway and Upper Nithsdale) (Con):** I would like to be part of that meeting if possible, because I have had many meetings during the past weeks and have visited several agencies in my constituency that will be affected by this decision. They include alcohol and drug support, an agency where the service demand has doubled in the past year; Women's Aid in Wigtonshire, which in the past year has gone from three to 11 support workers, four of whom are totally dependent upon supporting people funding; and the Loch Arthur community, an incredible trust whose work with disabled people gives it a genuinely productive community role and real worth in society. That funding is benefiting those at whom it is aimed and it cannot

be right to curtail funding to Dumfries and Galloway Council, as has been done to East Lothian Council, just because that region has been successful in rolling it out.

Will the minister consider acting in line with the terms of Elaine Murray's motion on the issue and agree at least not to decrease the resources that are available under the supporting people initiative?

**Malcolm Chisholm:** The fact of the matter is that overall resources are decreasing. This is a transfer from the Treasury, although the Executive has topped it up. We should remember that the resources have doubled during the past two years. We have to keep that in mind.

The changes that I have proposed will help Dumfries and Galloway to a considerable extent and the final details of that will emerge when I make my announcement. I have not just proposed to slow down the process of transition; I have also been willing to put in some extra transitional funding for 2007-08, which is crucial for slowing down the changes. I have made significant improvements that will help Dumfries and Galloway. I am not clear about what the member is suggesting but if I was to do everything that he wants, I am sure that there would be a large number of MSPs standing up to tell me that I was not meeting unmet need in their constituency.

**Maureen Macmillan (Highlands and Islands) (Lab):** Is the minister aware of a specific problem in Highland Council, which was highlighted by People First? That organisation fears that the reduction of supporting people funding to Highland Council will halt plans to move a number of patients from long-term mental health care in hospital into supported accommodation. Does he realise that that causes distress to the patients? Will the minister find a way to support the local authority by ensuring that the plans that have already been made and the outcomes that are eagerly anticipated by those people will not have to be abandoned?

**Malcolm Chisholm:** A lot of those decisions on how to spend the money have to be local decisions, but they should and will be informed by the reviews that will be done. From the reviews that have been done across the UK, we know that there is some scope for efficiency and I do not think that anyone in COSLA denies that. That has to be considered and priorities will have to be addressed within the significant sums of money that will still be available throughout Scotland for the supporting people initiative.

**Donald Gorrie (Central Scotland) (LD):** Will the minister ensure that councils use the available money, in part, to provide core funding for existing organisations that are delivering good service in

this sphere? In that way, councils could keep good projects going rather than just endlessly inventing new projects to satisfy new ministers.

**Malcolm Chisholm:** Many of those specific decisions will be for the local authorities involved, but I am sure that they will look carefully at their existing services and, if good services exist, I am sure that they will want them to continue.

**Susan Deacon (Edinburgh East and Musselburgh) (Lab):** Does the minister acknowledge that, whatever the rights and wrongs of the changes to funding, the handling of the issue has not been all that it might have been, and that lessons must be learned? Does he also acknowledge that, despite earlier assurances to the contrary, real people and projects are being adversely affected by the changes? We have heard examples from other areas. In Edinburgh, we know that rough sleeper services, for example, will be jeopardised, and that key initiatives in delayed discharge are being jeopardised. Those are key Executive priorities. Would it not be a tragedy if such areas, into which the Executive has put so much emphasis and investment, were to be undermined because of the mishandling of one area of funding?

**Malcolm Chisholm:** I do not agree with the comment about mishandling. There is no matter on which I have had more meetings in my first five weeks in this position than the supporting people initiative—there has been almost a meeting a week with COSLA, at which we have had prolonged discussions of the subject.

I cannot say that we agree entirely, because members of COSLA do not agree entirely among themselves. It is a fairly open secret that there was an almost complete split of opinion in COSLA and a casting vote was involved to decide whether it accepted our proposals. We are not talking about every council in Scotland expressing the same view; we are talking about deep divisions between councils for understandable reasons. We had to try to strike a balance so that we could move towards a fair distribution, but also slow down the process a bit and try to top up transitional funding as far as we could. That is the best deal that we can achieve.

### **Scotland Act 1998 (Powers)**

**2. Phil Gallie (South of Scotland) (Con):** To ask the Scottish Executive under what circumstances it would utilise its tax-varying power under the Scotland Act 1998. (S2O-3904)

**The Minister for Finance and Public Service Reform (Mr Tom McCabe):** The Scottish Executive has made it clear that it will not use the powers to vary the basic rate of income tax in the lifetime of this session of Parliament.

**Phil Gallie:** I thank the minister for an interesting response. Based on the Chancellor of the Exchequer's block grant commitments, the Executive has committed to extremely high levels of expenditure into the future of this session of Parliament. Given the already falling tax receipts and pressures on public expenditure, if the chancellor does a U-turn, what other facilities could the Scottish Executive use to maintain its current spending plans?

**Mr McCabe:** I will try to make this a wee bit more interesting for Mr Gallie. I am rather perplexed: on one hand, we hear the Conservatives talk about their desire to reduce council tax, but this afternoon they ask a question that is predicated on a desire to see the Scottish Executive raise income tax.

I can understand at least one reason why the Conservatives would like us to raise income tax—they have already pledged to take £600 million away from education in Scotland. They might wish to say to elderly people in Scotland, "We have reduced your council tax. I hope you don't mind that that means taking £600 million away from your grandchildren's education, or that the opportunities that that education would have given your grandchildren to engage in and take the opportunities of a modern world are now all gone." Perhaps that is the kind of doublespeak that the Conservatives want to engage in; it is not the kind of doublespeak that we will engage in.

The Conservatives misunderstood for 18 years and tried to propose policies that would encourage selfishness and self-interest in this society. They were wrong then, they are wrong now and they will be judged accordingly.

**Alasdair Morgan (South of Scotland) (SNP):** Given the Executive's priority of stimulating the Scottish economy, and given that tax-varying powers can be used to reduce as well as to increase taxes, would the minister find it useful if the Executive had powers to vary other taxes such as business taxes—corporation tax in particular?

**Mr McCabe:** Mr Morgan is right. We are committed to growing Scotland's economy; it is our number 1 priority. That is why, when we make spending commitments, we are sure that we have the resources to meet them. We are not like the SNP; we do not stand in the chamber day after day making commitments to spend tens of millions of pounds without any idea of how that money would be raised.

### **Open Space (New Developments)**

**3. Ms Rosemary Byrne (South of Scotland) (SSP):** To ask the Scottish Executive what progress it has made in setting minimum standards for open space in new developments. (S2O-3907)

**The Deputy Minister for Communities (Johann Lamont):** The Scottish Executive has commissioned research on minimum standards for open space and the interim findings are now being considered. The research will be published in early 2005 and will feed into the revision of planning policy on open space later next year.

**Ms Byrne:** Is the minister aware that playing fields are under threat in Ayr and in Irvine? Given concerns about obesity and poor health in children and young people, will she stop public-private partnership projects and retail developments impinging on facilities that have been used by communities for generations?

**Johann Lamont:** We should make it clear that our commitment in the planning process is to a presumption in favour of playing fields and open space. National planning policy guideline 11 on sport, recreation and open space—which is currently under review—considers how our open space can be used and how our playing fields can be protected.

The member will be aware that the presumption is currently that a development will be supported only if it will enhance an area, if an alternative is in place or if there is over-provision. SportsScotland, as a statutory consultee, has the right to object formally, in which case the matter would come before ministers. The Executive is committed to young people's health, to space that is safe and to playing fields that are fit for purpose.

**Mrs Mary Mulligan (Linlithgow) (Lab):** I have constituents who are presently faced with the landscaping of open space around their new homes, which is not the same as a planning application. The local authority feels that the situation is not serious enough to take enforcement action. What advice would the minister offer my constituents who feel that the quality of their environment has been compromised? How can we avoid developers making such variations without their consulting those who will be most affected by them?

**Johann Lamont:** Although I am the minister with responsibility for planning, I am not yet immersed in all the technicalities of the planning system—I have not been awarded my anorak yet. However, as a constituency member, I am aware of the impact of planning on communities. I would be grateful if the member could give me more details of the case that she highlights, so that I can reflect on whether general issues arise from it.

In the context of strong minimum standards for public open space in residential developments, landscaping works must take place early. If they take place later, local people object on the basis that the property is no longer the property that they bought. We have to find a way for communities to

have confidence in the planning system and for developers to recognise that early discussion and a commitment to carrying through what they say at an early stage are the way forward.

If the member writes to me with the details of the case that she mentioned, I will look into the matters that she has raised.

**Eleanor Scott (Highlands and Islands) (Green):** Given the importance of informal play and keeping children active, and the fact that that must be possible spontaneously in the child's environment, how will the Scottish Executive ensure that new residential developments reflect that and are designed to put the needs of the child first, rather than the needs of the car?

**Johann Lamont:** As I said, we have the interim findings on minimum standards for open space and we will examine them. It is an important issue and the Executive is committed to ensuring that our young people are active. We are also committed to the provision of safe open spaces, which is why, in the planning advice note on open space, there is recognition that local authorities must consider what is needed at local level. A local authority that is committed to supporting its young people must, as part of its strategy, not just leave open space, but be rigorous about how that open space is used and about whether it is safe for children. Cars can be very dangerous and other things are dangerous to young people in our communities. We are keen to work with local authorities on that.

## Second Homes

**4. George Lyon (Argyll and Bute) (LD):** To ask the Scottish Executive whether the extra finance raised through the abolition of the council tax discount on second homes will be directed to areas with affordable housing shortages caused by high levels of second-home ownership. (S20-3933)

**The Minister for Communities (Malcolm Chisholm):** The decisions regarding where the extra funding will be directed are for local authorities to make in consultation with Communities Scotland, and with reference to their local housing strategy.

**George Lyon:** Can the minister clarify whether the housing associations or the councils will be the providers of the new homes?

**Malcolm Chisholm:** The housing associations will be the providers of the new housing, but the local authorities will make the decisions about where investment can take place. The local authorities can choose either to give the money, in general terms, to Communities Scotland or to enter into an arrangement with a specific registered social landlord to build new houses.

## Public Sector (Wages)

**5. Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD):** To ask the Scottish Executive what the average public sector wage is and how it compares with the average private sector wage. (S2O-3969)

**The Minister for Finance and Public Service Reform (Mr Tom McCabe):** The average annual gross pay for full-time employees in the public sector in Scotland is £23,650. That is 2.7 per cent lower than the comparable private sector average of £24,286.

**Jeremy Purvis:** Is the minister aware of the evidence that was given by Professor David Bell, of the University of Stirling, to the Finance Committee on 2 November? He said that the growth in public expenditure in Scotland is

“well in excess of the rate of growth in the private sector in Scotland, which raises the question of the extent to which private sector activity might be being crowded out by the public sector.”—[*Official Report, Finance Committee*, 2 November 2004; c 1805.]

How is the Executive ensuring that the private sector will benefit from the growth in public expenditure in Scotland, in particular from the 40 per cent growth in the capital budget in Scotland?

**Mr McCabe:** This debate has raged among economists for some time; I suggest that it will continue to rage for years to come. There are undoubtedly examples around the world of very strong economies that have significant and vibrant public sectors. In the months to come, the Atkinson review will provide us with important information about productivity and outcomes in the public sector.

We should remember that with expansionist budgets in the public sector in Scotland, the previously clear lines between the public and private sectors are now very much blurred. We now have public-private partnerships, contracting out and a wide range of public procurement that involves the private sector in expending public sector finance. That said, we will always be mindful of the fact that the public sector must play its part in driving, not dragging, the Scottish economy. We have no intention of losing sight of that very important requirement.

## General

### Smoking

**1. Mrs Mary Mulligan (Linlithgow) (Lab):** To ask the Scottish Executive what help is available to people in the Linlithgow area who want to give up smoking. (S2O-3989)

**The Deputy Minister for Health and Community Care (Rhona Brankin):** A local

smoking cessation service is available at Linlithgow health centre, where one-to-one counselling is undertaken by one of the practice nurses and a health visitor. Nicotine replacement therapy or Zyban are available on prescription to help smokers in their attempts to quit. Moreover, people from Linlithgow can attend group smoking cessation services at St John's Hospital in Livingston, where evening groups are run in addition to daytime services.

**Mrs Mulligan:** I thank the minister for her answer and I welcome yesterday's announcement that smoking will be banned in enclosed public places. However, I am also aware of West Lothian Drug and Alcohol Service's good work on tobacco cessation. One group of constituents whose needs are not always recognised are those who have mental health problems. WLDAS is running a project funded by Lothian NHS Board that allows people who have mental health issues to find out how they can cease smoking. Is the minister aware of that project? What issues might it usefully tackle?

**Rhona Brankin:** Mary Mulligan is quite right to say that the smoking rate among people with mental health problems is a relevant issue; indeed, it is known that the rate is particularly high. I understand that, to improve services, Lothian NHS Board recently allocated £5,000 to West Lothian to help with the design of a smoking cessation service for people who have mental health problems. It is also ensuring that people of all ages with such problems will be consulted to identify their needs and to find out what kind of cessation service they would like. It is hoped that the service, which will be funded from the additional money that has been allocated for smoking cessation services, will be implemented next year.

Additional training is also planned this year to help practitioners in West Lothian with making smoking interventions and giving cessation advice specifically to people who have mental health problems.

## Draft Sexual Health and Relationships Strategy (Consultation)

**2. Patrick Harvie (Glasgow) (Green):** To ask the Scottish Executive when it expects to complete consideration of the responses to its consultation on the draft sexual health and relationships strategy. (S2O-4013)

**The Minister for Health and Community Care (Mr Andy Kerr):** As I said to members on 4 November, I expect to be in a position to publish the strategy before the end of the year. We will publish the analysis of the responses to the consultation at the same time.

**Patrick Harvie:** I thank the minister for his answer, which confirms the answer that he gave last week. Unfortunately, I lodged today's question before he gave that answer. If I had known that, I would not have made him repeat himself.

Does the minister agree that the recent description of the draft strategy and the general sexual health agenda as a values-free agenda misses the point completely and that any successful strategy must be based on values such as equality, self-respect and respect for others' dignity? Are not those strong values on which to base the Executive's work on improving Scotland's sexual health?

**Mr Kerr:** Yes, indeed. The strategy will attempt to reflect feelings from throughout Scotland and it will involve all the different aspects that the member mentioned. I should point out that many different interests are at play and that the Executive is seeking to provide a strategy that answers all Scotland's needs in respect of the difficult question of our nation's sexual health.

There are measures that we must take to improve our sexual health. The strategy has been delayed a bit longer to ensure that we get it right and that we reflect the views of all Scotland in our response. I am confident that the Executive will be able to do that. I am more than happy to confirm again that I will meet the cross-party group on sexual health. A meeting will be arranged as quickly as possible.

**Marlyn Glen (North East Scotland) (Lab):** Given that Scotland has one of the highest rates of teenage pregnancy, does the minister agree that the way forward is to take a bold and radical approach, such as that which has been taken to smoking? Does he also agree that we need to work with young people and to guide and support them, as the excellent Corner project in Dundee does, rather than to judge and preach to them?

**Mr Kerr:** The project that Marlyn Glen mentions and other projects throughout Scotland are doing a valuable job in our communities to ensure that young people have access to information that is based on their understanding of their problems, and that there is mature engagement with the issues. As I said at question time last week, we must trust professionals in our community who are working on the front line to deal responsibly with such matters. We must, as much as possible, involve parents in discussions and decisions about the sexual health strategy and the health and well-being of individuals. I am confident that the people whom I have met in the service are mature and that we can trust them to do a job for us. They try to take into account the whole life of individuals.

The service that is shared by Tayside NHS Board and Dundee City Council is a good

example. Young people receive information and advice that they can appreciate and understand, but the service is also underpinned by values. It is suggested to young people that they must discuss matters with parents and other adult members of their communities. The advice that is provided and the approach that is taken are wholesome. The Corner is a good centre that works well—doctors and professionals are present to provide the service, which is a model of good practice.

**Mrs Nanette Milne (North East Scotland) (Con):** The 2004 annual report of Her Majesty's Inspectorate of Education undertakes to produce advice on the implementation of the McCabe report, to be published by late 2004, and a report monitoring its implementation. When will that report be published? Can the minister confirm that parents were consulted by schools about sex and relationships education? What evidence of full consideration did the minister receive to satisfy him that that was the case?

**Mr Kerr:** Friendship and family relationships are at the heart of much education in our nurseries and our primary schools. They are the focus of our activities. I confirm that under current legislation and guidance—the education guidelines of 2000-01—schools have a responsibility to engage with parents, the religious community and the community generally on the provision of sex and lifestyle education. I am confident that the work to which Nanette Milne refers has been done, but I will have to clarify when the report that she mentioned will be published.

**Dr Jean Turner (Strathkelvin and Bearsden) (Ind):** Does the minister share the commitment of the previous Minister for Health and Community Care to ensuring that all Scotland's young people, whatever school they attend, have access to supportive sexual health advice and services? Does he agree that it is always desirable for schools to work co-operatively with the national health service to provide that access?

**Mr Kerr:** Absolutely. That is and will continue to be the Executive's policy. We are trying to modernise and develop our strategy to ensure that we do what works in our communities. We want to ensure that the strategy encompasses all those with whom it makes contact, but also that it is focused on the needs of individuals. It should also have at its core friendship and family relationships. We want to ensure that we provide young people with a whole-life understanding. This is a very difficult area for all of us, but we want to ensure that services are provided in the right locations, at the right time and in the right way, to allow the individuals concerned to get the benefit of them.

Sexual health in Scotland is not good. That is why we carried out a review, to which the Executive will respond. We seek to use the best

examples throughout Scotland to ensure that we provide our young people with a better opportunity to obtain advice when they need it.

**Susan Deacon (Edinburgh East and Musselburgh) (Lab):** Does the minister share my concern that some of the highly publicised and more intemperate interventions in the debate are in danger of obscuring the broad areas of agreement on the matter that exist in Scottish society and which have been reached through work on the matter, not least by the expert group that the Executive set up? Will he move forward in this matter and build on those broad areas of agreement? Will he work with those who want to work together to achieve real change, rather than with those who seem to prefer to disagree and to stand still?

**Mr Kerr:** I certainly do not take the media as my channel for information on the matter, because they seek to sensationalise the issue. They seek to build divisions, because that is what sells newspapers. I would rather engage directly with people including the churches, wider society and groups and organisations in our Parliament and elsewhere in Scotland. That is the basis on which our work will be developed; the expert group has done exactly that.

As I said in an earlier answer, we must ensure that our strategy fits with a modern Scotland and fits with our young people so that it can influence behaviour. We must ensure that we take the broadest approach to the matter and that we deal with the core issue, which is that our sexual health is not good enough so we must deal with it better. I think that we can develop a strategy that will have broad support around Scotland.

There have been sensationalist headlines here and there along the journey, but in the light of the correspondence that I have had with the churches and with other organisations I am confident that we will get a strategy that is soundly based and that the way that we want to deliver the strategy is broadly accepted by the people of Scotland.

As I said, I hope to report back to Parliament as quickly as possible. Let us understand that the issue is difficult and sensitive, but we should not engage through the newspapers. As Susan Deacon suggests, the best way to approach the issue is to build a strategy from a common base. The common base exists out there; it is what the work of the expert group has provided for us. We will publish our results as quickly as possible.

### **Courts (Modernisation)**

**3. Colin Fox (Lothians) (SSP):** To ask the Scottish Executive what plans it has to modernise courtrooms, in particular by ending the wearing of wigs and gowns and the use of some formal forms of address. (S2O-3937)

**The Minister for Justice (Hugh Henry):** The Scottish Executive has no current plans to specify court attire. It is our intention to improve the court environment for all users and there are already circumstances in which the wearing of gowns and wigs is dispensed with.

**Colin Fox:** I am sure that the minister accepts the need for a modern judicial system that enjoys the full confidence of the public. Does he also accept that the wearing of wigs and gowns and the use of the terms m'lord and m'lady paint an antiquated and bizarre picture, which serves only to intimidate and bemuse people and reduces public confidence in the Scottish justice system? Since so many parts of the modern democratic world have managed to rid themselves of those ancient anachronisms and refer to participants as the judge and the people rather than m'lord and the Crown, will the minister tell us whether he has plans to reduce the number of those relics and replace them with modern counterparts, or would he rather extend the wearing of wigs and gowns to all arms of legal procedure, including the Parliament?

**Hugh Henry:** I am not sure that the precedent that has been set in Parliament by members who wear tee-shirts in inappropriate circumstances is what we would want to see in our courts. The attire that is worn in the courts is largely a matter for the bench and the bar, rather than for ministers.

Colin Fox makes the fundamental point that our courts need to be modernised. We must ensure that people feel comfortable when they are in court seeking justice. That is why we have put so much effort into modernising court procedures. We have examined the High Court system and we are examining the sheriff court system. We have also considered giving better support and protection to witnesses and to victims. Those, rather than what someone is wearing, are the fundamental issues that really matter. However, I am sure that the points that have been made will be taken into account by judges and by the legal profession. It would be wrong to suggest that no changes have been made to modernise our court systems.

### **Calman Report**

**4. Iain Smith (North East Fife) (LD):** To ask the Scottish Executive what action it will take on the Calman report's recommendations to increase the number of medical training places in Scotland. (S2O-3922)

**The Minister for Health and Community Care (Mr Andy Kerr):** The Scottish Executive is carefully considering the implications of Sir Kenneth Calman's report and intends to publish its response before the end of the year.

**Iain Smith:** Will the minister accept that there is a need for extra medical training capacity in Scotland to ensure that suitably qualified Scotland-domiciled students can access places in medical schools to train as doctors and work in Scotland? In addition, will he advise me how he will work with the University of St Andrews to identify how to provide clinical education for the 50 more University of St Andrews students that Calman calls for?

**Mr Kerr:** I am currently considering how we can fulfil that ambition for the University of St Andrews. Likewise, we want to ensure that we address other issues that Sir Kenneth identified. We will consider the additional numbers that are required and we will consider how to work the admissions system of Scottish universities to provide for the needs of the service here in Scotland. In that regard, we will consider more collaboration among our universities. I have already met some postgraduate deans to discuss such issues. I accept some of Iain Smith's points.

Retention is also at the heart of the report. We will work on that and will continue to take steps. For instance, we will write to all fourth-year students—as they come to the end of their studies and are making key choices about their future—to try to keep them here in Scotland.

Sir Kenneth also raises the issue of admissions policies. We have a job to do on that to ensure that we have greater diversity and a broader mix among those who come to train as doctors in Scotland. We are also working to ensure that more people from Scotland come into that stream. I will be happy to report to Parliament as soon as I can on our conclusions on these matters.

### Small Claims Procedure

**5. Mr John Home Robertson (East Lothian) (Lab):** To ask the Scottish Executive what progress it has made on whether it will increase the threshold for claims that can be dealt with under the small-claims procedure. (S2O-3920)

**The Deputy Minister for Justice (Hugh Henry):** I am quite clear that there is a mood for change to the threshold for small claims, but there are still a number of issues that need more consideration before I can propose a new figure or a specific timetable.

**Mr Home Robertson:** Does the minister agree that it is ridiculous that consumers who have grievances about purchases of goods above the value of £750 are being denied access to the small-claims court procedure and that their only means of redress is through complicated and expensive action in the higher courts? Will he confirm that the threshold can be increased to a more realistic level of, say, £5,000 without any

detrimental consequences for personal injury claims? How soon can he make a change? How much longer will Scottish consumers who have been ripped off have to wait for access to small-claims procedures?

**Hugh Henry:** We need to act sooner rather than later. I congratulate John Home Robertson on his tireless efforts to promote the debate in Parliament and beyond. Something needs to happen.

Mr Home Robertson makes a valid point about small claims—the case for change—and he made a specific point about personal injury claims. I have received representations from a number of organisations, including trade unions and law firms that are involved in such work. More deliberation and consideration is needed because I would not want, by acting on one issue, to cause problems elsewhere. We are trying to come to a resolution that will be fair to all concerned.

There will have to be change in relation not only to small claims, but to other limits as well. That change is long overdue.

### Gambling

**6. Pauline McNeill (Glasgow Kelvin) (Lab):** To ask the Scottish Executive what discussions it has had with the UK Government on gambling law. (S2O-3927)

**The Deputy Minister for Finance and Public Service Reform (Tavish Scott):** The Scottish Executive is in regular contact with the UK Government on a wide range of issues, including the proposed new gambling legislation. Scottish ministers would have a wider range of controls under the proposed new system, including power to set licence fees and licence conditions. Scottish ministers will be fully involved in procedures for implementation of the new regime and will be consulted prior to the UK Government deciding when to commence the new arrangements.

**Pauline McNeill:** The minister may be aware that I have a constituency interest in the matter because a number of the applications appear to be for Glasgow Kelvin. I am pleased that the minister has said that there will be further powers to regulate the extent of casinos in Scotland. I hope that he will ensure that the Scottish Executive has the maximum powers to ensure that the number and location of casinos—if they are to be regarded as a help in regeneration—do not encourage or create other serious social problems.

Yesterday I met casino workers from Las Vegas who are fortunate enough to have a strong union and a good employer. Will the minister assure me that the Executive will communicate to potential casino employers that we will not tolerate poor pay or working conditions in Scotland?

**Tavish Scott:** I acknowledge Pauline McNeill's strength of feeling on the issue and I very much understand her constituency interest in it. As regards the meeting that she had yesterday with representatives of American trade unions, I can tell Parliament that Scottish Executive officials also met those unions yesterday. Ministers look forward to receiving a note of the specific points that they made, which we will certainly take seriously and examine closely.

I also confirm that, as gambling is a reserved matter, powers that are conferred on Scottish ministers—who are, of course, held accountable by this Parliament—will give them additional powers to issue planning guidance to local authorities to set conditions to be attached to any licence that is issued in Scotland. Far from our having no power or, indeed, less power, we will insist not just on the retention of our current strong system, but on its enhancement.

## Point of Order

15:01

**Mr Jamie McGrigor (Highlands and Islands) (Con):** On a point of order, Presiding Officer. I do not know whether other members agree with me, but it seems that the chamber is unreasonably hot.

**The Deputy Presiding Officer (Trish Godman):** I am aware of that and I have made representations on the matter.



## Members' Bills

**The Deputy Presiding Officer (Trish Godman):** The next item of business is a debate on motion S2M-1957, in the name of Iain Smith, on behalf of the Procedures Committee, on a new procedure for members' bills.

15:02

**Iain Smith (North East Fife) (LD):** The motion, which has been lodged on behalf of the Procedures Committee, invites the Parliament to agree a new procedure for dealing with members' bills. The changes to standing orders that we propose are set out in annex A to the report.

The origins of the inquiry date back to the Parliament's first session, when concerns were first expressed about the number of proposals for members' bills that were being lodged and the pressure that that was putting on parliamentary resources, especially on the ability of the non-Executive bills unit to assist members in working up their proposals into fully drafted bills. Pressure was also being put on Parliament, chamber and committee time.

The issue was discussed at length by the Scottish Parliamentary Corporate Body and the Parliamentary Bureau, which led to a proposal for a system of prioritisation that was put to the previous Procedures Committee towards the end of the first parliamentary session. The committee did not have time to consider the proposal in detail before dissolution so, after the election, the new Procedures Committee, under my convenership, was asked to progress it. However, by then the composition of the Parliament and of the bureau had changed somewhat, and it rapidly became clear that the consensus in favour of prioritisation that had existed in the bureau in session 1 was no longer there.

The new Procedures Committee began its inquiry on members' bills by considering the merits of prioritisation. The main doubt that emerged was about whether it was appropriate to put the bureau, which is an inherently party-political body, in charge of deciding between the legislative ideas of back-bench members. We considered other options, such as getting a committee to make prioritisation decisions, but we could not see how a prioritisation system could be made to work in a way that would secure the confidence of members and of the general public. The alternative procedure that emerged from our discussions, which our motion invites the Parliament to endorse, was an attempt to break the deadlock.

It might be worth bearing in mind the proposals on members' bills that were contained in the

consultative steering group's original report, "Shaping Scotland's Parliament". It said:

"Individual Members should be entitled to submit written proposals for legislation to the Presiding Officer. Such proposals should be brought before the Plenary if either they could secure the support of a minimum number of MSPs (perhaps 10% of the total), or by submitting them to the relevant subject Committee which should then have a discretionary competence to initiate an inquiry on the need for such legislation and to report to the Scottish Parliament. We also recommend that individual members should be able to introduce no more than 2 Bills in any Parliamentary session."

It is interesting that that quotation shows that there was no indication in the CSG's original report that members would have an automatic right to introduce a bill to the Parliament, but that they would be able to lodge a bill proposal that the Parliament would subject to scrutiny before it granted permission to introduce a bill.

In looking at alternatives to the system, we needed to take account of that point and of the fact that the Parliament's resources are finite and must be used wisely and that there are limits on parliamentary time. The requirement in the standing orders for only 11 signatures from other MSPs against a one-paragraph proposal—sometimes it is only a one-line proposal—was clearly no longer sufficient. Our aim was to balance the right of members to introduce bills with the need to use the Parliament's resources to best effect. A key aspect of that was the idea that members' bills should be subject to the same requirements for pre-legislative scrutiny and consultation as are other legislative proposals. The full details of our proposed new system are given in our report, but the main point is that the process now has two stages. The first part involves public consultation on a draft proposal, and the second involves getting other members' support for a final proposal before proceeding to the drafting of a bill and going through the normal parliamentary processes.

We recommend that consultation, which is a standard part of the criteria that NEBU uses in deciding whether to support the drafting of a bill, be formalised and be a requirement for all bills, and we recommend a minimum consultation period of 12 weeks. At the end of that period, the member would be required to provide a summary of the responses that were received and to produce his or her final proposal. At that point, MSPs would be asked whether they wish to support the proposal, knowing more than they do under the present system—under which they might have just a line about an idea—because the consultation would provide them with a clear indication of the type of legislation that was envisaged as well as what the public and other bodies thought of the proposal. That gives a much more rigorous approach to the pre-legislative

stages for a member's bill. Nothing in our proposals limits a member's right to introduce bills, but the recommendations require members to do a bit more work before they lodge a bill proposal.

For our second stage, we recommend an increase in the threshold of signatures needed once the consultation is complete. Considerable discussion was needed to reach a decision about that. Some members felt that the threshold needed to be increased significantly, while others felt that the present threshold was adequate, and in the end, we reached a compromise—I was going to say consensus, which might be to exaggerate the situation slightly—that we should propose that 18 members should be needed to support a bill proposal at the second stage and that there should be a requirement for cross-party support. That latter requirement is important, because members' bills should be able to display cross-party support. That is not an attempt to prevent any proposal from the smaller parties from getting through the process. Indeed, members of the Executive parties would be the most disadvantaged by the proposal, because members of the two parties could get together and have a majority in the Parliament, but under the proposal would still not be able to introduce a bill unless they could get support from one of the Opposition parties. The major parties in the Parliament would be more disadvantaged under the new system than would the minor parties.

Once the proposal has received the support of 18 members, a bill can be drafted and would get the support of the non-Executive bills unit's drafting resources. We hope that all bills would go through that route to try to ensure consistency in the quality of their drafting, but there is nothing to prevent a member from going outside the non-Executive bills unit should they wish to do so.

The report contains a number of other proposed changes, which I will run through quickly because time is limited. We recommend a formal requirement that a member's bill should be accompanied by explanatory notes and a policy memorandum, as is the case for Executive bills. At present, those accompanying documents are not mandatory but are normally included for members' bills that are introduced with support from the non-Executive bills unit. Secondly, we recommend that members be limited to having two proposals in progress at any one time. Thirdly, we endorse the business managers' view that there should be a cut-off date for introducing members' bills towards the end of a parliamentary session to prevent a huge rush and bills being passed towards the end of a session without adequate scrutiny. We suggest that that cut-off date should be the end of September in the third year of the normal four-year parliamentary session, that is, the September before the statutory date for the elections.

Fourthly, we recommend a new mechanism to allow the Executive to prevent a member's bill from being introduced, either if the Executive is planning to introduce its own similar legislation or if it knows of forthcoming Westminster legislation. That might sound slightly controversial and it might appear to be some sort of Executive veto. In fact, it is not. It is about trying to ensure that the Parliament's resources are used to best effect and that we do not duplicate the efforts of the Parliament unnecessarily if we know that legislation is coming. We have a four-year legislative timetable, and it would not make any sense to allow a member's bill to proceed if there were a proposal to achieve the same aim by means of Executive primary or secondary legislation within that period. There would be a requirement on the Executive to make a commitment in writing to introduce the relevant proposed legislation during the same parliamentary session.

We recommend giving a new option to the lead committee at stage 1. It would not necessarily have to conduct a full inquiry at stage 1 if it found that there was a basic flaw in the bill as introduced that made it impossible to take it to a successful conclusion.

We made a number of recommendations on implementation. Having considered how to phase the system in, we decided that there should be a single implementation date, as is specified in the motion. That presents some disadvantage to those who have already been involved in the process or who have bills in preparation that have not yet been lodged. We felt, however, that that was the only fair way to do it. To those who have done some consultation work—for example, my colleague Mike Pringle who has done a considerable amount of consultation on his bill on a plastic bag levy—I would say that that will not be wasted. It will be possible to use it to satisfy the consultation requirement under the proposed procedure. There is an exemption whereby new consultation might not be required and existing consultation findings may be used.

I recommend the new process to the Parliament. It will form a much more rigorous system for members' bills, and I think that it will improve the quality of those bills. I do not think that it will reduce the number of members' bills that are passed in the Parliament, but it will help ensure that those that are debated in committee and in the chamber have general public and cross-party support.

On behalf of the Procedures Committee, I am pleased to move,

That the Parliament notes the Procedures Committee's 6th Report, 2004 (Session 2), *A New Procedure for Members' Bills* (SP Paper 193), and agrees that the

changes to Standing Orders set out in Annexe A to the report be made with effect from 12 November 2004 but with new Rule 9.14A having effect only for as long as at least one Member's Bill introduced before that date remains in progress.

15:12

**Mr Bruce McFee (West of Scotland) (SNP):** As a relatively new member of the Procedures Committee, I had a great deal of background information to catch up on in getting to grips with the matters before us. I hope that I have been able to get to grips with the issues at the origin of the committee's inquiry and that I have been able to view the various options with fresh eyes as the inquiry has neared its conclusion.

My understanding is that, relatively early in the first session of the Parliament, it was recognised that the procedural right of a back-bench MSP to introduce a member's bill required to be supported by the necessary parliamentary resources. As a result, the non-Executive bills unit, or NEBU, was formed. It was not long before the pressures on NEBU were flagged up and prioritising criteria introduced. Before long, the issue came back on to the agenda. It was only the close proximity of the 2003 elections that effectively brought an end to the consideration of another series of proposals aimed at resolving the difficulties that were being experienced.

As I have read the documentation on the matter, taking the issue back to its genesis, it has become clear to me that the Procedures Committee has moved away from a position of simply being asked to resolve the thorny question of how to prioritise business and who should do that and has instead adopted a more proactive approach. In other words, a situation of trying to manage pressures on the existing system and trying to alleviate bottlenecks became one of improving the procedures for the introduction of members' bills.

The main recommendations in the committee's report, or at least the ones that have attracted most publicity, are straightforward. The report recommends the raising of the number of supporters required in order for a bill to progress from 11 to 18; it would introduce a requirement for cross-party support to come from half the parties and groups represented on the Parliamentary Bureau; it would limit the number of proposals or bills that a member may have in progress at any one time; and it confirms the need for there to be a cut-off point for the introduction of new members' bills about six months before an election.

However, the report's recommendations would do much more to improve the whole system. The recommendations introduce the principle, with few exceptions, that no member's bill should be introduced without the public having had the

opportunity to comment on what is being proposed, and that, during the minimum 12-week consultation period, there should be an opportunity to develop and test the idea. The report proposes providing the promoter with the opportunity to amend the draft proposals that they lodged and on which they went out to consultation, based on the findings of that consultation, and it would allow for a period of one month during which members can consider whether to support the bill, based on the summary of the conclusions and the precise nature of the possibly amended proposals. As Iain Smith said, members could determine support for a member's bill with a far clearer understanding of what the eventual bill would look like. The report suggests requiring the promoter of the bill to provide explanatory notes and a policy memorandum at the time of introduction. There would be no more one-line statements. An onus would also be placed on the promoter of the bill to ensure that the proposal is basically sound before stage 1 scrutiny can commence.

It goes without saying that any changes will attract criticism of some sort, but the proposals are better than the alternatives that are on offer. The other options include the potential collapse of the existing system, bills being determined according to the political persuasion of their promoter, and the lottery of a ballot, with the inevitable loss of well-supported and worthy bills.

I hope that the Parliament endorses the proposals that are set out in the report, so that we can have a sensible and structured approach to members' bills, with the emphasis on quality and not on chance. We should be motivated by a genuine desire to use the procedure for members' bills to improve the lives of ordinary Scots. It should not be a gimmick for obtaining easy publicity.

15:17

**Mr Jamie McGrigor (Highlands and Islands) (Con):** Before the non-Executive bills unit was created, members and committees had access only to limited support from the legislation team and the Scottish Parliament information centre, or to any outside assistance that interested organisations were prepared to offer. That was considered to be inadequate, and NEBU was created early in session 1. The unit is made up of dedicated and experienced clerking staff and Parliament lawyers, and its role is to assist members and committees through the development process and to train members in the right way to hit the ball through the hoops without being croqueted too often by technical or legal snags. As we know, the process is complicated. A small amendment can easily turn into a long-

winded bill as a result of the follow-on of the effects and impacts that it produces.

It is important that opportunities exist for legislation to be created by bodies other than the Scottish Executive. There are already good examples of useful legislation that has been instigated by individuals and passed by the Parliament. That said, it is necessary to manage the process properly, so that the number of bills that come forward does not lead to a traffic jam in the system, or to bills not receiving enough attention and support because the process is too rushed. There must be some sort of sifting and prioritisation, but the Conservatives do not think that the Parliamentary Bureau is the appropriate body to carry that out. However, there is no reason why it should not influence the process by considering the outstanding bills annually and making recommendations to the Parliament as to whether they should be accepted or rejected.

Members who submit bills can receive assistance from experts on the parliamentary staff, and it would greatly help the process if members undertook responsibility for the consultation process. That process will give the member a good indication of support for or opposition to their bill at an early stage and it may allow them to drop their proposals if too great a degree of opposition has been exposed during the consultation process.

There are currently 40 proposals for members' bills, which is already more than there were in the entire first session. Obviously, that will put an enormous strain on NEBU and stretch the limits of its capacity to cope. The head of that unit, David Cullum, has said that NEBU's current capacity is having four bills running and four bills in preparation, although it somehow managed to cope during the final year of the previous session, when it handled seven bills simultaneously.

As a result of the consultation process, many proposals do not result in the drafting or introduction of a member's bill and it would be wrong if a decision of the Parliament made it more difficult for members to introduce a bill. Although it is perfectly acceptable for members to draw support from outside the Parliament's resources, thereby relieving the burden on those resources, such support must be of an expert nature if it is to benefit the process.

Of course, it is not only NEBU that is stretched by too many bills; the parliamentary timescales into which bills have to be fitted are also stretched. It has been suggested that we should establish special committees that would be like the committees that are established to consider private bills. However, such a measure would place extra burdens on members' work schedules.

Members should not be restricted to introducing only one member's bill per session. Very few members will have the time or energy to manage to introduce more than one bill, but the proposal might prevent an excellent idea from coming forward in the shape of a bill.

It is important that weak and pointless proposals should be sifted out at an early stage, before they take up the valuable time of NEBU and the committees of the Parliament. Matters such as the legislative competence or adequacy of drafting of a bill should be sorted out early, so that lead committees need not conduct a stage 1 inquiry for a bill that contains a basic flaw. A bill should contain no such flaws by the time it reaches the lead committee. The rule changes will ensure that that is the case.

The purpose of a member's bill should be to facilitate an improvement in the lives of Scottish people, rather than to act as a public relations stunt to get a member's name into the newspapers.

15:21

**Cathie Craigie (Cumbernauld and Kilsyth) (Lab):** I have been looking round the chamber and I wonder whether some of my Labour colleagues are after my place on the Procedures Committee. Eighteen Labour members are present and the committee already seems to have support for its proposals.

It is warm in the chamber and I am grateful to Jamie McGrigor for his comments about the heat—I was beginning to think it might be something to do with my age.

Some people think that the Procedures Committee is dull and boring, but we have many laughs, usually when we meet ourselves in the middle of a roundabout that our discussions have gone round many times—in the same direction. Thankfully, when we have the opportunity to talk about our ideas and suggestions, we are able to come up with recommendations that will make the Parliament's work easier and better. As I said, committee members are famous for repeating themselves, but I will not do so. I will concentrate on the consultation process, which is one aspect of the committee's recommendations.

Too often, members submit a one-line idea for a bill—Jamie McGrigor talked about that—and are then quick to put out a press release and do the rounds of the press and the media tower without a thought for what other members know about the proposal and without having consulted widely on the implications of their idea for the people of Scotland. Members think that that is wrong and that we must take a different approach to members' ideas and proposals for bills. That was

the main reason for the committee's inquiry, which I remember arose from a request from the Minister for Parliamentary Business. Never mind the traffic jams and hold-ups in the process; uppermost in committee members' minds when we conducted our inquiry was the fact that proposals are sometimes designed to facilitate publicity stunts rather than to change the laws of Scotland.

**Susan Deacon (Edinburgh East and Musselburgh) (Lab):** I experienced the joys, excitement and fun of the Procedures Committee in the first session of the Parliament, so I am familiar with some of the issues and challenges with which the committee has grappled. However, as Cathie Craigie is a member of the current session's Procedures Committee, could she clarify for members who have not studied the Parliament's procedures closely in recent months how the proposed changes in the consultation process will look and feel to the public? How will the changes address concerns about consultation fatigue? I would genuinely appreciate clarification on that point.

**Cathie Craigie:** The consultation procedure that members adopt will, in a way, be up to them, but the Parliament will set a framework that will ensure that at least the minimum consultation is carried out. I point members to my colleague Karen Whitefield's on-going consultation on her proposed member's bill on Christmas and new year's day trading, which is an example of an inclusive consultation that is easy to access. The Parliament may want to consider the way in which Karen Whitefield has set up the consultation and adopt it as a model.

Members will have to demonstrate that they have consulted fully and sufficiently and that there is support for their proposal. The consultation must be shown to be open and meaningful and members must not be allowed to opt out of the consultation. We also include the proposal that, if members demonstrate that they have fully consulted on a proposed bill, they will not have to do it again when the bill is introduced. The Procedures Committee takes the matter seriously and hopes that other committees will ensure that they scrutinise thoroughly the statements that members produce to avoid having to consult further.

I recommend the proposals to the Parliament and I hope that members accept them tonight. I look forward to continued developments in members' bills and to the law of Scotland being changed from the grass roots by members of the Parliament, with support and encouragement from local organisations and groups that represent local people in our constituencies.

15:27

**Mr Mark Ruskell (Mid Scotland and Fife) (Green):** I welcome the opportunity to contribute to this Procedures Committee debate. Obviously, I am not Mark Ballard, who is the Green party member on the Procedures Committee, although I have been told that we have certain similarities. Mark Ballard sends his apologies for not attending.

On behalf of the Greens, I welcome the report and the amendments to standing orders that are attached. I have some experience with members' bills. Although I was not an elected member in the first session of Parliament, I assisted Robin Harper with certain aspects of his member's bill in the first session. Now, in the second session, as an elected member, I have my own member's bill proposal on liability for the release of genetically modified organisms, which I have been working on for about a year.

It is worth distinguishing between the system here and the system at Westminster, where proposals for private members' bills often result in bills that have only a remote chance of becoming legislation, or even of being voted on. Private members' bills are often campaigns, and not really proper bits of proposed legislation—I call them probing bills. They exist to try to get Government action on particular topics and are not designed to become serious bits of legislation. However, that is not true in every case.

**Margaret Jamieson (Kilmarnock and Loudoun) (Lab):** Will the member take an intervention?

**Mr Ruskell:** Go on, then.

**Margaret Jamieson:** I am concerned that the picture that the member paints of private members' bills at Westminster is flippanant. Does he agree that the legislation that was enacted following Bill Tynan's private member's bill on the regulation of fireworks has assisted significant numbers of my constituents and many constituents of other MSPs?

**Mr Ruskell:** Absolutely. That is why I wanted to qualify my statement by saying that some private members' bills have got on to the statute book and changed people's lives for the better. However, the majority of proposals that are put into the ballot for private members' bills are simply for probing or campaigning bills.

We have a slightly different process in the Scottish Parliament because the system for members' bills is politically a bit simpler and fairer, which can lead to a shorter timescale for the development of a bill proposal, right the way through to its introduction. Of course, there is a danger there, because if that policy development phase is skipped, a bill that has not been drafted

correctly could get into a committee and clog it up. Members will be aware of examples of that from the first session. On behalf of the Greens, I welcome the proposal to put the emphasis back on the front-end policy development side of things.

It is important that the consultation comes first. That puts an onus on MSPs to engage with civic society, which can deliver a reality check on our proposals. It also chimes well with what the Scottish Constitutional Convention has said, which is that there is a need for civic society to provide some sort of second chamber to the Parliament. If we get meaningful consultation at the outset, it becomes not just consultation but active participation in devising legislation. That is important.

I am pleased that the Procedures Committee rejected political prioritisation. Every member of the Parliament is paid to work for the electorate. We are paid to use the tools that are at our disposal, which include legislation. Those are tools that we have in order to serve the people, and we need to be allowed to work on those tools. But—and it is a big but—there needs to be some form of selection criteria to enable the members' bills system to work efficiently. The amendments that the committee has proposed strike the right balance. For example, the need for proposals to get the support of 18 members from three different parties will force a degree of consensus. It will force all parties, including the Labour Party, to work with others in the chamber.

I agree with the proposal to allow the Executive effectively to block members' legislation if the Executive is introducing its own legislation. That is fine, as long as it happens earlier in the process rather than later, so that we avoid a situation in which an individual member does a massive amount of work on a piece of legislation, only for it to be repeated by the Executive. Stewart Maxwell is a case in point. I am working on a bill proposal to enable strict liability to be imposed on the biotechnology companies regarding economic damage. I would be prepared to withdraw that if the Executive were going to introduce legislation to that effect, but there is a huge difference between the Executive introducing a Scottish statutory instrument on coexistence and liability regimes, and what I propose, which is a change in the law to place strict liability on the biotech companies. In that respect, I hope that proposed new rule 13(a) of standing orders is tight enough, because if it is not, we are effectively closing down legislative options proposed by members that might garner substantial cross-party support at stage 1.

When I worked with Robin Harper in the first session I found that NEBU support is vital. It is crucial that that support is properly resourced,

which I do not think is the case at the moment. We are putting the Scottish Parliamentary Corporate Body in a position in which it is having to make a decision about which members' bills go on to get further support, without any criteria to make that decision. Paragraph 114 in the Procedure Committee's report says:

"NEBU officials cannot make such choices alone"—

I would say that NEBU officials cannot make those choices at all without being put into an exposed position; it is not fair on them—

"so it falls to the SPCB at least to establish clear criteria to be applied."

That is what is missing at the moment; that is what all members need: clear criteria that will be used by the SPCB to judge whether members' bills can get further support.

15:34

**Donald Gorrie (Central Scotland) (LD):** As a veteran, along with Susan Deacon, of the Procedures Committee in the first session of Parliament, I take an interest in these matters and I congratulate the current Procedures Committee on the fact that, even without the wise advice that we would have given it, it has come up with a reasonable proposition and has tackled this set of problems seriously.

In general, I support the committee's proposals. However, I wish to make a few points. I think that the proposal that a minister will have to write to say

"that the Executive will initiate legislation, within the same session, to give effect to the final proposal"

is acceptable. I have tried to run with two bills. The first was on licensing reform and the Executive headed me off by setting up the Nicholson committee. I think that that was a good thing to do because the committee produced a lot of excellent ideas. Most of them would have been in my bill anyway, but the matter was properly examined and that is fair enough.

The second issue that I pursued was sectarianism. The Executive headed me off by setting up a working party, which to me, never having been in a position of any importance, was extremely illuminating. The Executive's working party and a parliamentary committee were like chalk and cheese; the working party was one of the most useless organisations that I have ever belonged to in my life. It was roughly equivalent to the kirk session that I belonged to.

The fact that the Executive will have to promise that it will deliver legislation is important, but the next part of the paragraph mentions an alternative, in which the Executive would write to indicate that

"Her Majesty's Government has initiated or will initiate legislation".

That is much more questionable. Sewel motions are a controversial part of life here. The provision is not like the Executive saying, "We will produce legislation on the matter because it is in our power to do so." If the Westminster Government is producing legislation that is relevant to a possible member's bill in the Scottish Parliament, that would have to be covered by a Sewel motion and people might legitimately think that that was a bad thing. I would not go to the wall on that point, but I think that it should be re-examined. The fact that Westminster might do something should not be the end of the story as far as a bill is concerned.

I tried to read the report carefully, but I do not see a commitment on the timetabling of bills. I presume that the Parliamentary Bureau would set out a timetable, as it does for Executive bills, but I think that that should be made clear. If some people are not keen on a member's bill, feet dragging could take place in a committee. Rules should be in place to prevent that, so that a bill gets fair treatment and a fair timetable even if some people disapprove of it.

My final point is outwith the committee's proposals. We should examine ways in which groups of members who are keen on particular ideas, such as cross-party groups, can have a matter properly debated in a full time slot—not as a members' business debate—without having to go to the length of producing a bill. People could say, "This is an important issue, which might need a bill or which might need administrative action," and we could have a full debate in parliamentary time to air the issue. At the moment we do not have such a mechanism; only the Executive, the parties or committees can put forward items for the agenda. Individual members can have a debate only in extra time. Members' business debates are valuable and often the most entertaining part of the day, but they are considered to be second-division activity.

The committee has done good work, but I suggest that it should examine the possibility of a mechanism for groups of interested members to have a debate on a subject—perhaps an issue that is a bit contentious and that no party is prepared to raise. Members are here to be brave. I fully appreciate that parties cannot be brave.

**The Deputy Presiding Officer:** I call Margaret Curran to close for the Executive.

15:39

**The Minister for Parliamentary Business (Ms Margaret Curran):** This is my first speech in a parliamentary debate in my new role and it is probably the first time in that role that I will not be using the words "Formally moved."

I look forward to working with the Procedures Committee, particularly after Cathie Craigie's glowing description of its work—my anticipation grows. Like Bruce McFee, I am familiarising myself with the work of the committee. The Executive welcomes its efforts and the commitment that it has shown in bringing forward the proposals in its report "A New Procedure for Members' Bills". I acknowledge the committee's detailed consideration of all the issues that we have discussed, which are particularly interesting as the Executive responds and develops its legislative programme.

I am sure that members are well aware that the Executive had the opportunity to contribute to the committee's inquiry. Our views on the arrangements for managing non-Executive bills were well known to committee members through my predecessor's written and oral evidence, which I endorse completely, and through meetings of officials at various levels.

Properly, the Executive recognises that, alongside our bills, non-Executive bills have an important part to play in the parliamentary process. That can be seen clearly from the scope and range of the 14 non-Executive bills that have been passed. Cathie Craigie made some significant points. Non-Executive bills were embedded in the Parliament's creation and the opportunities to introduce them are an important part of the democratic process. It is important that they are properly and expertly delivered, because the principle and the practice are critical.

It is therefore vital that arrangements are in place to manage non-Executive bills. It is important that the process is practical and robust, so that we can make the most effective use of limited resources, especially in NEBU and parliamentary time. In all our efforts—be they in the Executive or non-Executive bill processes—we need to have a system that inspires confidence, so that we pass sound and effective legislation that reflects the real needs of the people of Scotland.

We strongly support members' legitimate aspirations to ensure that sufficient parliamentary time and resources are available to secure the passage of a number of non-Executive bills during a session. I recall from my early days in the Parliament some concern that demand for members' bills could be high and unmanageable. Such demand did not materialise and the level of bill proposals has stayed reasonably manageable for NEBU and parliamentary capabilities. However, we recognise that under the current arrangements NEBU can be subject to potential pressure points at certain times in a session. It is not easy to predict the volume of members' bills that might be proposed and the consequential pressures on staff and parliamentary time.

We accept that demand in future could be such that choices must be made between competing proposals. As members know, at the start of the committee's inquiry the Executive aligned its position with the previous Parliamentary Bureau's proposal to introduce a new step whereby the bureau would recommend to the Parliament which members' bills should be advanced, although the Parliament as a whole would decide on that. However, we note that the committee has not recommended a step to prioritise bills. It has proposed an in-depth preliminary process. If agreed to by the Parliament, that process—along with the committee's other recommendations—will not only make the member's bill process more rigorous, but have the benefit of weeding out bill proposals early that have little or no chance of succeeding, as has been said.

The Executive acknowledges the detailed consideration that the Procedures Committee has given to all the members' bills procedures. The recommendations are helpful and should improve the process for all concerned. I thank the committee's convener, members and staff for all their work, for affording the Executive the opportunity to have its views factored into the committee's considerations and for establishing an atmosphere of joint work and joint commitment. I look forward to continuing that constructive work with the committee in future.

**The Deputy Presiding Officer:** Members who have been paying attention will know that I made a deliberate mistake and called the Minister for Parliamentary Business at the wrong time. I will now revert to the right order and call Robert Brown.

15:44

**Robert Brown (Glasgow) (LD):** I am a member of the Scottish Parliamentary Corporate Body, among other things, but I am not speaking for the corporate body. Nevertheless, the corporate body kicked the ball on to the pitch in the first place, so we have a continuing interest in developments.

It is appropriate to make one or two observations from a wider perspective. The debate has been sophisticated and mature. One or two members talked about resources, which are not unlimited. We live in a climate in which the United Kingdom Government and the Scottish Executive are making moves towards cutting and being diligent about the use of official resources. The same practice must apply to a degree to the Parliament's activities.

There is always a balance to be struck. There is no absolute right to have a member's bill before the Parliament, there is no absolute right to a time slot and there is no absolutely right level for

resources for NEBU. For what it is worth, my impression is that the current level of resources is probably about right, although the Parliament will no doubt want to revisit that matter from time to time.

Individual members, or a significant number of members, might want extra resources, but those resources still have to be justified before they can be agreed to by the Parliament and the corporate body under its management responsibilities. As Paul Grice said in evidence to the committee, the issue gave the SPCB some difficulty. We were always a bit uncomfortable with the first-come-first-served approach and not too keen on making political judgments in such matters, even though the corporate body is one of the few non-political bodies in the parliamentary set-up.

The issue of members' bills stands at the fulcrum between the rights of members of the Parliament, the rights of the public and the rights of the Executive. It is reasonably clear that the issue is primarily a matter for the Parliament, but we cannot say that the Executive has no interest, because time for legislation and the management of parliamentary resources, which are matters for the Parliamentary Bureau and parliamentary managers, have to be taken into account. My personal preference is to bend over backwards to go against the Executive in favour of back-bench members; that is the approach that the Parliament should take, given the resources that the Executive has to deal with such matters.

To some extent, the new procedures, which I support, kick the ball back to the SPCB. Paragraph 116 of the committee's report says:

"It is for the SPCB to decide which of these (or similar) criteria it would wish NEBU to apply in deciding which proposals to support ... We believe the SPCB should feel able to seek the Parliament's general endorsement of such a set of criteria ... should it consider that necessary."

Therefore, there is still a residual issue that might have to be considered at some point in future.

It is interesting to consider the nature of some of the bills that have been proposed, because they cast a little light on the way in which the issue should be approached. Some of the bills related to matters that were contained in the partnership agreement. I can think of the proposals on charities and on third-party planning rights of appeal—there was a commitment to consult on the latter, but perhaps the proposal did not go as far as that. In all of that, members can see some of the issues and difficulties that emerge when we try to decide how members' bills should be progressed. The proposals for members' bills have probably had some effect on moving the Executive in one direction or another without those bills having to go all the way; we have seen examples of that, too.



The SPCB will have particular difficulty with bills that are complex or lengthy, because they take up many hours of NEBU time. We will have to revisit that issue.

**Mr Ruskell** *rose*—

**Robert Brown:** I do not have time to take an intervention; I am right at the end of my four minutes.

The proposals are reasonable. I suspect that we are not at the end of the line for discussion and that we will come back to the matter in the future. However, at least the proposals give a mechanism for guiding where we go and restrict the need for the SPCB to get involved in the contentious area of prioritising bills. I hope that the recommendations are adopted.

15:48

**Mr McGrigor:** I thank the Deputy Presiding Officer for having the radiators turned down.

The changes in procedures will enable NEBU—a very helpful body—to be even more helpful. Iain Smith pointed out that the bureau would not be the appropriate body to prioritise members' bills. As he said, parliamentary resources and time are finite. I have always felt that we should have evening debates, because that would greatly extend debating time. However, that is an argument for another day.

We Conservatives felt that the status quo of a threshold of 11 supporting members was all right. However, given that other members suggested a threshold of as many as 30 supporting members, we were inclined to accept a compromise of 18.

We hope that bills will go through NEBU. However, if they do not, the draftsmanship will have to be of a sufficiently high standard to equal that of NEBU. Mediocre drafting can cause delays and misunderstanding in valuable committee and parliamentary time. I will take Cathie Craigie's advice and look at the consultation process for Karen Whitefield's proposed Christmas and new year's day trading in Scotland bill, because it is only through experience that a new Parliament can learn.

The First Minister told us to raise our game. One way of doing that would be to change procedures that do not work properly and to produce procedures that are as fair as possible to anyone who takes part and that other Parliaments envy.

We do not want a situation in which an individual does an enormous amount of work only to be trumped by the introduction of a similar bill by the Executive. It would be good to know more details about the Executive's legislative programme further in advance. The Executive should tell a

member if it has similar plans. I understand that the Executive has picked up Margaret Mitchell's proposed sexual grooming of children (Scotland) bill, which deals with a serious matter of great importance. I congratulate it on doing that.

Donald Gorrie gave the examples of how he had been headed off on licensing and sectarianism and said that the Executive working party was useless. That is surely a waste of public time and money and an example of bad practice.

I find it difficult to understand Donald Gorrie's proposal for special debates. Who would introduce such debates and what time would be allowed for debating them? Is there a process in Westminster or another Parliament that allows for that kind of debate and, if so, will he give a fuller explanation of his suggestion?

15:52

**Bruce Crawford (Mid Scotland and Fife) (SNP):** What a joyful experience it was to be on the Procedures Committee, particularly during long and hard negotiations with a member such as Karen Gillon, who started off with a proposal for a threshold of 30 supporters—

**Karen Gillon (Clydesdale) (Lab):** It was 25.

**Bruce Crawford:** Okay, it was not as high as 30. We eventually got closer to what Jamie McGrigor required and ended up with a threshold of 18 members. I thank Karen Gillon for that experience; I have learned from her negotiation procedures.

We should not underestimate the importance of members' bills. If we look back to some of the important legislation that was passed in the first session, that point is all too well highlighted. The Protection of Wild Mammals (Scotland) Bill, the Abolition of Poindings and Warrant Sales Bill and the Leasehold Casualties (Scotland) Bill were all important bills. Eight members' bills were passed in the previous session. Reference has been made to what is happening at Westminster, but I doubt whether, without devolution, eight members' bills effecting such important change for Scotland would have been passed in the same period.

**Iain Smith:** I am sure that it was an accidental oversight that the member did not mention the University of St Andrews (Postgraduate Medical Degrees) Bill.

**Bruce Crawford:** It was no oversight—Iain Smith never stopped telling us about that bill and we have heard much about it already. However, I congratulate the member on getting the bill passed.

The committee gathered some interesting evidence. Joyce McMillan mentioned

"The need to develop a system which respects the basic principles on which the Parliament is founded—in particular, in this instance, the principle of power-sharing."

She also talked about

"The need for the Parliament to play to its strengths, and to build on its image as an open and innovative parliament"

and

"The need for a system which works effectively in providing substantial scope for the introduction of Non-Executive Bills".

We should remember her important words.

In its evidence, the Scottish Council for Voluntary Organisations recommended

"that the Committee bears in mind that non-Executive bills and in particular the Members' Bill process, are seen by voluntary organisations as a key method of engagement, and therefore the need to make any significant changes to the process should be investigated fully, and in the spirit of the CSG Principles".

The committee entered into that spirit and there were hard negotiations around what the final outcomes should be. The discussions around the role of the Parliamentary Bureau were of particular interest. As Iain Smith said, the initial proposal was that the Parliamentary Bureau should be the body to prioritise bills. Clearly, that would have brought political decision making into the system much earlier than was desirable. It is entirely appropriate that, at stage 1, the Executive has the opportunity to say whether it supports a bill. That is the appropriate stage for the political decisions to be made.

Bruce McFee recognised, with his fresh view on the work of the committee—

**Mr McFee:** Fresh eyes.

**Bruce Crawford:** Fresh eyes? I have heard them called many things, but never fresh eyes.

Bruce McFee recognised the real anxieties over the issue of prioritisation versus thresholds. The committee got that decision dead right. Fourteen per cent of members will be required to sign up to a bill and the proposal will require support from half the parties or groups that are represented on the bureau. That will improve the system and provide a wider body of support, reflecting a desire for real and meaningful change. It should squeeze out the spurious proposals that are more about point scoring and political chicanery than about making real changes on behalf of Scots and it should enhance credibility through improved quality.

I have a few more things to say, but I am over my four minutes.

15:56

**Karen Gillon (Clydesdale) (Lab):** Greetings from the fun and frolics of the Procedures

Committee. It is obviously the most exciting committee of the Scottish Parliament, followed closely by the Subordinate Legislation Committee. When I picked up the papers last Thursday, I was absolutely convinced that we were in for a rip-roaring debate. I am not saying that we have not had a rip-roaring debate, but I expected something more.

I read that the Scottish Socialist Party and the independent members oppose the new procedure and see it as an attack on democracy in the Parliament. Tommy Sheridan said:

"The new rules are designed to undermine the ability of smaller parties and rebel MSPs advancing radical and non-mainstream ideas."

This is a sanitising, control-freak move by the executive, supported by the big parties to try and keep MSPs in line."

I expected at least one of those MSPs to turn up this afternoon to put forward their views for debate. The Parliament is the forum for democracy. We should have those debates in the Parliament, not through the pages of a newspaper. It is when those same members think that members' bills are a device for gaining publicity and not for changing the law that we see their contempt for the Parliament and its processes. The Parliament is the place for debate and I thought that we would have had that debate today.

I welcome the contributions that members have made and I would like to clarify what the position will now be. Members will be required to undertake a full consultation process on their bills before they secure the support of other members. They will now need to secure the support of 18 members and, with the introduction of the independent group to the bureau, a bill will require the support of four parties. By front-loading the consultation process, more pressure will be put on MSPs to sign up to bills. Members will no longer be signing up to a single line in the name of a particular member whom they may or may not like; they will be signing up to something that has been fully consulted on and debated with the public, which means that they will have a much better idea of what the proposed legislation will be. That will put more onus on back-bench MSPs to consider the bills and it will be for the MSPs to prioritise which bills move forward.

**Mr McGrigor:** I appreciate the point that the member is making, but how will she get members to read the entire consultation?

**Karen Gillon:** It is for individual members to determine what, in their view, is or is not important. When a piece of legislation comes before the Parliament, it is up to an individual member's conscience whether they read the accompanying paperwork, sign up to the proposal and listen to the people who come to the surgeries

in their constituencies. Quite frankly, if members are too lazy to pick up a document before they sign a piece of paper, they should not be in the Parliament. Perhaps such members need to consider why they are here.

Members have raised a number of points in the debate. Mark Ruskell—whom I would never mistake for Mark Ballard, except on numerous occasions—mentioned the SPCB criteria, which are covered in paragraphs 115 and 116 of the report. The key point is that we have left it to the SPCB to decide those criteria. However, because the corporate body is not always as open, honest and frank in its discussions as some of us might like it to be, we need to consider how that decision-making process can be communicated to members and how members might be able to get involved in it. We have given some pointers to what the criteria might be.

Donald Gorrie raised several points. I do not want to get into the question whether there should be time for members to introduce controversial proposals. After all, part of the purpose of a member's bill is to try to effect legislative change. I have to say that I was not convinced by Mr Gorrie's other arguments.

The report does not refer to the timetable for members' bills, because it deals with the process before such bills are introduced. Certain procedures already allow all bills to be timetabled and will prevent them from being stalled indefinitely. It will be a matter of integrity for the committees involved to find out how best they can consider and take forward any member's bill.

It is important to point out that the new process will allow committees to timetable their work much better and will ensure that they consider members' bills in detail. As a result, when a member's bill is introduced at the last minute, committees will not feel pressured and will be able to scrutinise it effectively.

**Robert Brown:** I was intrigued by paragraph 90, which sets out the lead committee's right to avoid a full stage 1 inquiry. It says that the lead committee could take such a step if a bill

"is unlikely ever to pass the test of legislative competence".

I might have misunderstood that paragraph, but is that not a matter for the Presiding Officer's office? If the bill passes that test, are there any grounds for a committee to be any more concerned about its legislative competence than about more minor drafting deficiencies?

**Karen Gillon:** In the past, a bill has been introduced with such significant flaws that it has been impossible to amend at later stages. Instead of going through what is effectively a meaningless process, the committee should be able to push the

bill back at that point, allowing the member to introduce a revised bill that would better fit the Parliament's processes and be able to be effectively scrutinised. I am certainly prepared to write to the member in more detail if that would be helpful.

I accept Donald Gorrie's point that the right of the UK Government to block a member's bill raises a more difficult question than that raised by the ability of the Scottish Executive to indicate whether it will introduce legislation similar to a member's bill proposal. I welcome the latter change, as it means that the Executive will have to make its decision within a month. Indeed, I hope soon to secure an Executive decision on whether it will introduce legislation on a proposal for a member's bill that I lodged 18 months ago. Timescales are an important question. If Donald Gorrie reads the report, he will find that we have built in safeguards to make it unlikely that the processes that he mentions would be used very often. That said, the committee is committed to examining the issue of Sewel motions early in the new year. I hope that that gives him the reassurance that he requires.

I welcome the points that members have made and hope that, together, we can move the debate forward. I also hope that the new process will mean that members' bills will progress in a clearer and more rational way that allows the public and the Parliament to scrutinise them fully. Perhaps as a result more members' bills will be enacted. I urge the Parliament to support the motion in the name of my colleague Iain Smith.

## Bills

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

The next item of business is a debate on motion S2M-1982, in the name of Iain Smith, on behalf of the Procedures Committee, on the timescales and stages of bills. I invite Karen Gillon to speak to and move the motion as soon as she has retrieved her notes and got her breath back.

16:05

**Karen Gillon (Clydesdale) (Lab):** For some time, members have expressed concern about the timetable for the process for legislation. Those concerns have been echoed by others inside and outwith the Parliament. A number of areas required detailed scrutiny and discussion. In carrying out that scrutiny, the Procedures Committee was mindful of the balance that needs to be struck to ensure that legislation is properly scrutinised and is not held up because of narrow political interests. The changes that are proposed today will help to strike that balance and will give members and others additional time to consider legislation. The committee proposes not a seismic shift but a carefully considered package of measures that will increase the accessibility of the process and improve the quality of legislation that is passed.

The main thrust of the proposed changes reflects the committee's unanimous view that there should be flexibility in the legislative system. Bills differ greatly from one another in both size and complexity, so it is difficult to have a simple one-size-fits-all process. In the course of the inquiry, it became apparent to the committee that time invested in the early stages of the process—front-loading—will reap benefits later, by reducing the number and complexity of issues that are outstanding by the time that stages 2 and 3 are reached. However, no matter how long the discussion and how involved the scrutiny, there will always be issues about which a political decision will need to be made, at the end of the day, because two sides cannot find a common way forward. In those cases, MSPs will be required to resolve the conflict by a majority vote, based on their political or personal views. However long and involved the legislative process is, we cannot get away from that. Sometimes members who are unhappy with a decision will choose to blame the process.

Many of the changes that we propose will require changes to standing orders. They fall into three main categories: first, longer minimum intervals between the stages of bills to allow amendments to be discussed and drafted; secondly, earlier lodging deadlines for amendments to give members more time to

prepare for meetings at stage 2 and stage 3 after the amendments have been grouped; and thirdly, more flexibility in the timetabling of stage 3.

I will examine each stage individually and draw members' attention to the following points. I will deal first with stage 1. From the outset, it is important that there should be a dialogue between the Parliamentary Bureau, which sets the timetable, and the lead committee, which scrutinises the legislation. We are also keen to ensure that the dialogue between the lead committee and secondary committees is improved, to enable all those committees effectively to scrutinise legislation together. We believe that the dialogue that currently takes place can be improved and we urge the bureau to work with conveners to develop effective lines of communication. We accept fully that on almost every occasion when extension of a timetable was requested, that extension was granted. However, we believe that by improving dialogue at the beginning, the number of such requests would be reduced.

External agencies expressed concern about the timetable for consultation at stage 1. It is important that adequate time be allowed for that. Although the committee does not go so far as to suggest the 12 weeks for which the Executive consults, it recommends that a minimum period of six to eight weeks be allowed for consultation. That is far more than many committees currently allow and would improve the process.

A number of members expressed concern about the difficulties that they experience when a committee report is not available in sufficient time ahead of a stage 1 debate. That does not allow effective scrutiny and real decision making that is based on evidence. Therefore, we have suggested changes that would introduce a requirement for there to be a minimum of five sitting days between the publication of the report and the stage 1 debate. If that were not the case, Parliament would be required to vote to allow the stage 1 debate to go ahead.

On balance, the changes will lengthen the timetable at stage 1, but the committee believes that that front-loading will bring benefits at the later stages.

The intervals between stages were also of some concern. The committee recognises that the length of time between stages impacts on the ability of members to scrutinise legislation and to propose amendments. For that reason, we have recommended that the current interval between stages 1 and 2 be increased from seven sitting days to 11 sitting days. Similarly, time is required between stages 2 and 3 to consider the bill and potential amendments. As a result, we have recommended that, regardless of whether the bill

has been amended at stage 2, the minimum interval between stage 2 and stage 3 should be nine sitting days. Those are the minimum intervals, and the committee hopes that, when there are particularly complex or controversial issues, the Parliamentary Bureau will consider a longer period.

We have recommended that the notice period for the lodging of amendments should be increased by a day. Although that change is not huge, we believe that it will be significant to members. The change increases the period from two days to three at stage 2 and from three days to four at stage 3. There will be an earlier deadline for stage 3 amendments on the final lodging day; it will be 12 noon rather than the current 2 pm. By bringing those deadlines forward it should be possible for the marshalled list and groupings to be available a day earlier than is currently the case. Members have indicated that they want such a change. Having access to those documents will enable members to finalise their preparations for each meeting. The change will also make the job of civil servants and clerks easier. It is important that we recognise that the family-friendly principles of the Parliament should not be exclusively the realm of members but, whenever possible, should be extended to the staff who work with us and for us.

We recognise that any such changes in the rules are only part of what is needed to make the process work to best advantage. We urge members to lodge their amendments, whenever possible, as early as they can. We welcome it when the Executive follows its long-standing policy of lodging amendments, whenever possible, five days prior to the deadline, and we urge other members to do the same when they can so that all members can scrutinise the amendments that are placed before the Parliament.

The committee recognises that stage 2 is inevitably a fairly intensive process. We accept that committees will often have to meet weekly during stage 2 of a big bill and sometimes more than once a week. We recommend a single lodging day for both days to simplify the process when a committee meets twice in a week. Similarly, if stage 3 is to be held over two days, we ask for a single lodging day.

On stage 3 timetabling, we have recommended a number of changes that we believe will improve the stage 3 process, but which are not an excuse for not having a good timetabling motion. The committee felt strongly that the timetabling motion is the most important part of the process. The changes that we envisage will allow flexibility to ensure that all amendments are spoken to and will allow a 30-minute move from the timetable, but

they are not an alternative to a well-thought-out timetabling motion.

I believe that the changes are significant and that they will improve the timetabling and legislative process in the Parliament. I urge the Parliament to endorse the motion in the name of Iain Smith.

I move,

That the Parliament notes the Procedures Committee's 7th Report, 2004 (Session 2), *Timescales and Stages of Bills* (SP Paper 228), and agrees that the changes to Standing Orders set out in Annexe A to the report be made with effect from 10 January 2005.

16:14

**Mr Bruce McFee (West of Scotland) (SNP):** I should have been immediately suspicious of the smile on my colleague Bruce Crawford's face when he heard the news that he was off the Procedures Committee and that I had been delegated the task. Any lingering doubts about the reason for that smile were dispelled the day that he arrived at my office with half a hundredweight of paperwork, notes and reports that covered the period that he had served on the committee. Judging by its condition, I would say that some of the paperwork had had more than one previous owner. Therefore, it was with more than a little feeling of revenge that, in my new position as deputy whip in the SNP group, I had the pleasure of visiting Bruce's office to inform him that his input was required for two Procedures Committee debates this afternoon—including one that he thought he had managed to avoid.

If nothing else, the Procedures Committee has anorak appeal. However, to leave it at that would be to misrepresent the importance of the committee's work to the effective operation of the Parliament. The report is the result of a second fairly lengthy inquiry by the committee. I came in at the tail end, but there is a distinct advantage to being a tail-ender in that the really heavy work of evidence taking has been concluded and members are left solely with the transcripts and the summaries.

I do not intend to cover every aspect of the report; that would be impossible in the time available. Although much examination took place to ascertain the role of committees in pre-legislative scrutiny and to determine the value of publishing draft bills, I believe that the evidence was inconclusive and that the committee was right not to make specific recommendations on those matters. However, the committee was in no doubt about the need for adequate time for consideration at every stage of a bill's progress, to enhance members' ability to scrutinise the bill and so improve the legislation that is enacted.

There was general consensus that ensuring the effectiveness of the stage 1 inquiry is crucial, because that inquiry not only informs general understanding and the level of debate at stage 1, but sets the scene for later stages by flagging up issues to be addressed. That is why the committee's recommendation that the overall timetable for the stage 1 inquiry should take proper account of the time needed for both written and oral evidence—for example, by allowing at least six to eight weeks for written evidence—makes eminent sense.

The committee's view that the lead committee in particular should consult all other relevant committees before the Parliamentary Bureau agrees a timetable should help to ensure that an adequate period is allocated for the stage 1 inquiry. The recommendation to change standing orders—to provide a minimum of a week between the publication of a stage 1 report and the holding of the stage 1 debate—should help to inform the debate and the future course of the bill.

The recommended increase from a minimum of seven sitting days between stages 1 and 2 to a minimum of 11 sitting days—in effect, an additional week—provides members with an enhanced minimum time to help them to prepare for stage 2.

I do not want to dwell too long on the proposals to change the arrangements for lodging amendments at stages 2 and 3—Karen Gillon has already described those proposals—but I will say that their adoption will add to the overall consideration that is given to a bill and will aid better understanding of the effects of amendments.

The committee had considerable concerns that the overall time presently allocated to stage 3 is insufficient. The committee felt that business managers required to consult more widely before recommending a timetable to Parliament. I believe that the flexibility that the report suggests on timetabling motions, and the degree of latitude that it recommends be afforded to the Presiding Officer to take account of circumstances as proceedings unfold, will help to achieve a better distribution of the time available. Coupled with the proposed ability of members to extend a particular deadline by up to 30 minutes—subject to a maximum of 30 minutes being added to the day's business—those suggestions will assist in removing the absurd situation of some amendments being formally moved with no debate at stage 3.

At present, the debate at the end of stage 3 can be as short as 30 minutes. That should not be allowed to continue—especially as it reduces, or even eliminates, the ability of back benchers to speak. The committee's recommendation will not ensure that all back benchers who desire to speak

will be able to do so, but it will go part of the way towards addressing an indefensible situation. That recommendation, combined with a requirement for revised or supplementary explanatory notes to be provided four days ahead of stage 3 whenever new sections or schedules have been added or whenever existing provisions have been substantially amended, should reduce the rush and should help better to inform deliberations and debate.

The proposals that are before us should help to improve the standard of the legislation that the Parliament passes and should add to members' understanding of the process. I urge members to support them. My application for an anorak is in the post.

16:20

**Mr Jamie McGrigor (Highlands and Islands) (Con):** In order to improve the opportunities for members and others to participate in the making of sound legislation, it is necessary to allow enough time for the purpose of bills and the consequences of amendments to them to be fully understood by all concerned. It would help a great deal if lead committees consulted other relevant committees before a timetable is agreed with the Parliamentary Bureau. At least two months should be allowed for the submission of written evidence and the consideration of oral evidence, and committees should be able to share that evidence.

I agree with the Procedures Committee's recommendation that there should be a minimum of a week between the publication of a stage 1 report and the holding of a stage 1 debate. The Conservatives also agree that the minimum interval between stage 1 and stage 2 should be increased from seven to 11 sitting days, as that will give members an extra week to digest the points that have been raised at stage 1 before they tackle the complications of stage 2.

At stage 2, we face a problem that many people highlighted, especially in relation to the Protection of Wild Mammals (Scotland) Bill and the Nature Conservation (Scotland) Bill, which is that there is not enough time to digest and understand some amendments well enough to comment on them. An interesting example of that occurred during consideration of the Nature Conservation (Scotland) Bill. The Environment and Rural Development Committee received a written submission from the Scottish Gamekeepers Association that referred to amendments that had been lodged on Monday 26 January, which were not published until Tuesday 27 January and which were to be debated at the committee's meeting at 10 am on Wednesday 28 January.

In his letter, Alex Hogg, the chairman of the SGA, explained that the SGA committee was made up of full-time professional wildlife managers whose remit was to advise parliamentarians of any adverse or other effects that proposals might have on rural employment, wildlife and the countryside and to recommend considered amendments to support the rural spectrum. I point out that the SGA can afford to employ only one full-time member of staff to assist it. Given that the nature of the work of SGA committee members means that they are usually outdoors from the crack of dawn to late in the evening, it proved impossible for them to respond to amendments and to prepare briefing notes for relevant committee members in time for the meeting.

As the SGA has been extremely useful in explaining the practical effects of amendments to bills that relate to the countryside, I consider that its evidence is particularly relevant and that its complaint should be taken seriously by the Parliament. If we are to be open and accessible, it is important that practical people from all backgrounds are able to understand what an amendment means and what consequences it will have, especially if they have been asked to submit evidence and are involved in the bill process. Cloudy water takes time to settle, just as complicated amendments take time to become clear. The point is that it is clear that the current procedure discriminates against the busy working person and so is against the ethos of the Scottish Parliament.

I hope that that example will encourage members to support the Procedures Committee's recommendation to increase the notice period for amendments that are lodged at stage 2 from two days to three days and to bring forward the deadline on the final lodging day from 2 pm to 12 noon. We Conservatives agree with the recommendation that when a committee holds two or more stage 2 meetings in the same week, only the lodging deadline for the first meeting should apply. We also agree that a minimum interval of nine sitting days between stage 2 and stage 3 should apply to all bills, not just those that have been amended.

I am glad that the First Minister highlighted the fact that bad law has resulted from a process that was too rushed. He said that he sometimes felt uncomfortable about taking the whole of stage 3 of a bill in a single day. There have been occasions on which major amendments have been passed, but there has been no time for them to be considered before the bill was voted through that same afternoon. We agree with the recommendation that the notice period for lodging amendments at stage 3 should be increased from three days to four days and that there should be a

single lodging deadline when stage 3 is to be taken over two days.

More time should be allowed for stage 3 proceedings and more flexibility should be built into timetabling motions to allow the best use of the time that is available. We agree that the Presiding Officer should be given discretion to take account of which members should be allowed to speak as proceedings unfold. It is also a good idea to have a new rule that will allow a member to move a motion to extend a timetabling deadline.

We believe that the changes, which are based on the experience of our new Parliament, will help to avoid bad law and will secure sounder law for Scotland in future.

16:25

**Donald Gorrie (Central Scotland) (LD):** I welcome the proposals as moving in the right direction because they address a lot of important issues. I hope that the committee will revisit the timescales and stages of bills and will consider more radical proposals in future, but I am not against what it proposes.

The background to the report is that we have no revising chamber and even exalted and usually sensible people such as David Steel have suggested that we need a body similar to the House of Lords. I do not agree with that argument at all, but to counter it, we must produce a more robust system for scrutinising bills than we have at the moment. We must ensure that we get a bill right first time, because we do not get a second kick at the ball.

Naturally, there is pressure from the Executive to get its legislative proposals through. It always wants the rapidest possible timetable and says, "Oh, we must get the bill through by June," or whatever. We must be strong enough to resist that and we must have fair scrutiny of the detail of all bills that are introduced.

As other members have said, the amendment process at stage 2 needs more time. In my experience, the various interested bodies that have knowledge in the area of work under consideration get hold of MSPs and say, "We really need amendments that say A, B and C." A member pursues those points, and the Executive often has some sympathy with them but thinks that there is a bit of special pleading and going over the top on the part of the interested bodies, so it responds with another amendment that, it thinks, satisfies the demand. However, the member has to get back to the pressure groups to ask whether the Executive's proposal satisfies their point and to give them the chance to say that the amendment does not address a particular point. There must be time for such consultation and ping-pong to take

place, so we need slightly longer than is suggested in the new proposal for the stage 2 timetable.

One point about stage 2 that the report mentions should be tightened up. Sometimes, a raft of amendments is introduced to make considerable changes to a bill or to add a new aspect to it. They might have been consulted on in general terms in the committee's stage 1 inquiry, but the mechanism that is proposed to address the committee's generally accepted wish might have to be examined in more detail. Committees have sometimes consulted at stage 2, but the rule should be that they must consult if significant new proposals are made or if, even though the proposal is not new, the mechanism for achieving it is new. If it is known that the Executive will support the proposal and so it will get through, it is all the more necessary for it to be scrutinised.

Bruce McFee dealt well with the timetable for stage 3. It is essential to have a more flexible system for the debate at stage 3, and, again, the proposals could go further. We have no history of filibustering here, but there is no fear of filibustering, because the limit on the length of speeches is so tight. I think that the rule should be that any member who wants to speak on an amendment at stage 3 or who wants to make a speech in the stage 3 debate should be able to do so. That might not affect how the voting goes, but it is important that there is a full debate at stage 3. As the committee's report says, out of nine bills, two had amendments moved without debate and four others had very restricted debate, often on the most sensitive parts.

The trouble with timetabling motions is that it is difficult to foretell exactly where the time pressures will be. Usually, there is more pressure in relation to a particular part of a bill. Many bills have one or two aspects that arouse controversy. Sometimes, the timetable for those aspects is too tight, while the timetable for the bill as a whole is not. The Presiding Officer must be given flexibility and, as I understand it, that will happen under the committee's proposals.

Members who have requested to speak can sometimes be restricted, but we should be encouraging more members to speak during debates on stage 3 amendments. At the moment, the debate on whether to pass the bill is usually just a rerun of the debates that were held in committee; very few non-committee members tend to take part. We should be encouraging them to do so. If they knew that they would be given time and that they would be able to speak, they would participate.

I hope that this point will be taken seriously—it is the most important point that I want to make. We need a stage 2A—something between stage 2 and

stage 3—when the committee and the Executive can re-examine the shape of a bill as amended at stage 2 and try to negotiate the aspects that are still controversial or work out some good amendments to satisfy, if possible, the various points of view. That might clarify exactly what any dispute is about and appropriate amendments could be lodged in that light.

We need a stage between stages 2 and 3, because we must get over the criticism that we do not examine bills carefully enough in the later stages. Initial consultation is excellent but, towards the end, the process gets like a cycle race around a track. People drool round slowly for several laps, but suddenly they all sprint like hell. That is how we deal with our bills. The last stage is too much of a sprint, and we should space it out more. I hope that the Procedures Committee will consider those suggestions in its next round of consultation.

16:33

**Pauline McNeill (Glasgow Kelvin) (Lab):** I recognise that the Procedures Committee has a key function in the Parliament—and I really mean that. I know that this might have been trailed as a dull debate. However, far from being anoraks, I think that those members who are here are democrats, as we care about the democratic process.

The debate is essentially about ensuring that we achieve the highest quality of legislation with the appropriate amount of democratic scrutiny. I believe that the process is too rushed at the moment—not in every case, but in too many cases. I welcome the work that the Procedures Committee has done. As Donald Gorrie says, if we want to resist the idea that is already formulating in some people's minds of a second chamber, we must ensure that our process is not rushed, that we take the proper amount of time and that proper scrutiny is attached to the process.

I was given the opportunity to give evidence to the Procedures Committee, for which I was grateful. It was strange to be at the other end of the table—now I know how witnesses feel when they are being grilled. Actually, the Procedures Committee was quite kind to me and I appreciated the chance to describe my experience as a convener.

I have a number of observations to make. At the start of the various stages of the consideration of a bill, it is fundamental that committee members have enough time and the right information to be able to understand the bill's scope and what it seeks to do. They should be able to understand in full the contents of any bill. In that regard, it is crucial that the accompanying documents are easy to understand and that they carry with them a



full explanation. My recent experience has been that not everything is fully explained in the explanatory notes. In some cases, they have contained inaccurate information. They come at the beginning of the process and we rely on them, so we must get that part of the process absolutely right.

It has always struck me as odd that there are many accompanying notes at the beginning of the process, but when a bill is amended at stage 2, there are no notes and no clues as to why a bill has been changed in a particular way. I have yet to be told why we decided to work in that way, and I hope that we change things. Such a way of working makes no sense, particularly for members who are not members of the relevant committee. When they read an amended bill, they must understand why it has been amended in a particular way.

Stage 1 reports can flag up important issues that require further evidence, and there must be scope in the process to take evidence at stage 2. Donald Gorrie suggested that there should be a stage 2A, but I think that, provided that there is enough flexibility in the system, if committees need to take evidence at stage 2, they should be allowed to do so. That might be a compromise stage between stages.

There are, of course, different types of bill—not all bills are the same. The Parliament has dealt with general bills that have miscellaneous provisions, the scope of which are so wide that we sometimes come to the Parliament at stage 3 and find that issues have been attached to them that we have never debated previously. We must consider that matter too, as we must find another way that does not prevent people from lodging amendments, but that ensures that there is scrutiny before we reach stage 3.

The Procedures Committee is right to talk about mandatory timescales for consultation and spaces between stages. The committee has done really good work. I appreciate the point that Karen Gillon made. The report may not be revolutionary and perhaps we would like to go further, but it will genuinely help to change things for the better.

We all have examples in which timescales have been too short. One example that strikes me is the Tenements (Scotland) Bill, in which I had an interest and which was dealt with by a committee other than mine. Consideration of that bill took place over an extremely short period.

It should be recognised that we are not always present at stages 1 and 2 not because we are not interested, but because we are doing other things. We must make it possible for members who are not members of the relevant committee to feel as

much part of the process as members of that committee do. We must develop such a culture.

There is an issue for back benchers in particular in respect of balancing out their views. There should be more negotiation involving committees and the Executive about what a committee can achieve in a given timescale. In my recent experience, the bureau has certainly never denied my committee's requests, but there is always an argument about time.

I want to talk about stage 2. When I have considered the procedure, it has always struck me that a good sketch would show an MSP—particularly on their first day—laying their eyes on a marshalled list for the first time. Bruce McFee talked about looking at things with fresh eyes, but I do not know how he felt when he first came to the Parliament. There are groupings and documents that I cannot discuss here, but all those documents sit in front of us and we pretend that we are experts and that we know every step of the way. Following the procedure is a particular skill. When I first became convener of the Justice 2 Committee, I nearly died when I saw the brief for the Land Reform (Scotland) Bill, which ran to 84 pages and covered a solid 19 weeks. I thought that I would not be able to do what I was meant to do, but we managed somehow.

It is fair to consider the process and to make it as easy for members as possible. The fact that there is no single document and that we must cut and paste from the *Business Bulletin* every time an amendment appears is a disgrace for the Parliament. There should be a single source of information, so that if any member wants to know how many amendments have been lodged, they can go to that source, find everything and make a judgment about what they want to do in relation to a bill.

Karen Gillon pointed out that the work of the clerks in rushing to meet timetable deadlines has been extraordinary. I have experience of speaking to clerks at the stroke of midnight to check groupings. At that stage, a convener cannot really reject groupings if they are for the following day, yet that is meant to be part of the process.

Much of the process must change for the better. There should be recommendations about consultation, and I think that there should be eight weeks rather than six weeks for consultation at stage 1. The norm should be eight weeks, as that is when we consult the public, and negotiations should take place if the consultation period is to be shorter than that.

To summarise, a very good piece of work has been produced. I hope that the Parliament will adopt the report's recommendations. We must constantly scrutinise our processes to check that

they are working. We must get our processes right if we want to avoid debate about the quality of our legislation and about whether there should be a second chamber. I whole-heartedly support the Procedures Committee's recommendations.

**The Deputy Presiding Officer:** Contrary to all expectation and precedent, we are behind the clock. I ask the closing speakers to stick strictly to their time limits.

16:40

**Mr McGrigor:** Karen Gillon said that members' bills should never be held up by narrow political interest. I agree with her. There is no doubt that time invested early will produce a richer harvest. I also agree with her that there needs to be more dialogue between committees and perhaps more sharing of evidence taking. The committee rooms in this building are large enough to allow that to happen. It is all well and good for members of a committee to reach a consensus about who should represent the committee at another committee's meeting at which shared evidence is to be taken, but I defend at all costs the right of any committee member to attend and speak at such a meeting. That should be set in concrete.

I listened to Bruce McFee's contribution and I am sure that his description of himself as a "tail-ender" is far too modest. He made a good point about lead committees holding dialogue with subsidiary committees at an early stage before timetables are set.

Donald Gorrie talked about the need for a more robust system and said that we must be strong enough to withstand pressures and take enough time to scrutinise bills. I agree with him. It is worth taking the time to get something right.

The Procedures Committee recommends a change to standing orders to make the Executive memorandum on delegated powers in a bill a mandatory document. That is a good idea, as is the recommendation that revised explanatory notes be provided four days before a stage 3 debate, which would greatly help the understanding of amendments to bills at stage 2. A revised financial memorandum would also be extremely helpful in circumstances in which the financial implications of a bill are changed by amendments at stage 2. Pauline McNeill made those points well.

It is vital that the Presiding Officer should have flexibility at stage 3. He can help to redress difficult situations that arise at stage 3, which can be unpredictable, as members know. He should have the discretion to allow more time for a debate if it is perfectly obvious that that is needed. *[Applause.]*

16:43

**Bruce Crawford (Mid Scotland and Fife) (SNP):** Jamie McGrigor received applause from members for being brief—should I sit down now?

**Members:** Yes.

**Bruce Crawford:** It will take only a couple of minutes for me to make a few comments that I think are reasonably important. I agree with Karen Gillon that there is no seismic shift. However, important changes and adjustments are being proposed that will significantly improve the legislative process.

Pauline McNeill—I am losing my notes—cheered me up by saying that in what we are doing we are democrats rather than anoraks. That is an important distinction. At times the process might be tedious, but the reports that the Procedures Committee has produced demonstrate the importance of the committee's work. The nature of the committee's work is the gradual, continual improvement of the Parliament's processes. The Procedures Committee cannot be revolutionary, because its recommendations must be considered by the Parliament and if we want to make progress by consensus, revolution ain't the way.

The committee's inquiry was about improving the Parliament's legislative process, not for members but for those who are outside the Parliament. The recommendations are about increasing transparency and enabling people to participate more successfully with us in fashioning the laws that emanate from the Parliament. Frankly, I think that there is no point in having the Parliament unless civic Scotland and individuals outwith the Parliament participate and feel that they can be involved and can contribute constructively and meaningfully.

The processes that we adopted at the beginning of the Parliament were better than those at Westminster, but they were not the best that they could be. It is to the great credit of the Parliament that we have agreed to move on, adjust our processes and bring about a different way of doing business. We are only at the start of the journey, which will be taken by on-going, incremental small steps—it will not always involve a revolution. Let us continue that journey as we have been going.

16:45

**The Minister for Parliamentary Business (Ms Margaret Curran):** If ever there was a time for me to say, "Formally moved," perhaps this is it. However, I will briefly outline the Executive's response because the discussion is important. The Executive welcomes many of the recommendations in the Procedures Committee's seventh report of 2004, on the timescales and

stages of bills. As the Executive is the primary source of the legislation that the Parliament scrutinises, we have a direct interest in ensuring that the procedures work efficiently and effectively. I concur strongly with the comments that my predecessor, Patricia Ferguson, made when she gave evidence to the committee in March. She noted that managing the legislative programme is perhaps the most important part of the Parliament's business and that it is vital to ensure that the process works smoothly and efficiently, as far as is reasonably possible.

The underlying principle is that the Parliament should give legislative proposals due scrutiny. Committees must be supported in carrying out that important activity to ensure critical analysis, integrity and transparency in their evidence taking and decision making. All members who have spoken in the debate embraced that point. The interests of those who will be affected by the legislation and of those who will implement it must also be borne in mind.

We all agree that the passage of legislation is a complex process. Parliamentary time is always at a premium, but that should not mean that we need to sacrifice due process or clarity. An effective balance must be struck and it is therefore essential that the Parliament's procedures should be reviewed from time to time and that improvements should be made where appropriate. I hope that the proposed changes will simplify the legislative process and make it easier for people to follow and to understand how bills have developed, especially during the detailed consideration at stage 2. Although some of the changes appear relatively minor, they are not at all cosmetic. It is important that any changes are improvements and that they do not undermine the serious business of legislating.

Some of the recommendations will place additional burdens on the Parliament and the Executive, notably the new requirements to provide updated explanatory notes and financial memoranda. However, we accept that those changes are designed to improve the process for all concerned and that, as Pauline McNeill said, they should assist members and others who have an interest in the passage of legislation. I understand that the Parliament's legislation team plans to continue the review process, with a view to devising new methods of presenting information that will, we hope, make it easier for members and others to follow the process of lodging, considering and disposing of amendments to bills. The Executive bill teams would be happy to be involved in the planned pilots and to provide feedback—I hope that the legislation team will take up that offer.

With the 50 Executive bills in the first session behind us, as well as many more in the second,

we have tried to learn from practical experience. After the most recent election, we reviewed and sharpened our procedures, from policy development, through public consultation and analysis and the drafting of a bill, the parliamentary stages and royal assent to implementation and putting the act to work, which is obviously important.

We expect the changes to lead to improvements and the Executive is committed to working with the Parliament to ensure that that is the case. I confirm that the Executive is content for the changes to be implemented on 10 January 2005, as agreed by the Parliamentary Bureau. I am happy for the Executive to work closely with the Procedures Committee as we develop the processes.

16:49

**Iain Smith (North East Fife) (LD):** I know what members are thinking—we wait for a whole year for a Procedures Committee debate and then two come along at once. I know that members also think that the Parliamentary Bureau has no sense of humour, but if they looked at the members' business item that is coming up after this debate, they would realise that it does. For those who did not get that, the motion is called "Dying with Dignity", which is what I will try to do in the next 10 minutes.

I thank the members of the Procedures Committee not just for this report but for the one on members' bills that we have just debated. As the Deputy Presiding Officer will know, the Procedures Committee is a strange beast. The committee tends to talk for a long time about certain things and then suddenly a new idea comes out of the blue and the committee moves in a slightly different direction and comes up with a set of proposals that will, we hope, help to improve the business of the Parliament. I am grateful to committee members for the work that they have done in preparing the two reports that we have had before us today.

I would like to say a particular thanks to the Scottish National Party. I am well known for my ability to forget names, so the fact that Bruce changed to Bruce on the committee was helpful to me as convener. I thank the committee clerks for the extraordinary amount of work that they do in producing the reports and materials for the committee's sometimes rather esoteric debates, and the Executive and other witnesses who participated in our discussions. We should pay particular thanks to the non-parliamentary bodies that contributed to the proceedings by giving written and oral evidence to the committee about how the parliamentary procedures work for them. This is not just about how Parliament deals with its

own business internally, but about how our business is perceived and how people contribute to it. As Jamie McGrigor rightly highlighted, people can contribute to the process of the development of legislation.

We probably did not go as far in our recommendations as many of those outside bodies would have liked, but we have to balance the need for consultation with the need to make decisions, and balance the role of civic Scotland to advise and inform our decisions with that of MSPs to reach conclusions on that advice and information.

**Susan Deacon (Edinburgh East and Musselburgh) (Lab):** Can the convener of the Procedures Committee advise whether the committee has any plans to take forward the recommendation of the previous committee to shift the balance in the Parliament towards greater post-legislative scrutiny, which I recall was also supported by the former Social Justice Committee? We must recognise that no matter how effective our processes for consultation are in the laboratory of the committee room or the chamber, what really matters is how the legislation impacts on the world outside. Now that we have put all these acts of Parliament on the statute book we need to test them and ensure that they are doing what we wanted them to do.

**Iain Smith:** It is important that the Parliament gets involved in post-legislative scrutiny. The Procedures Committee does not need to do anything for that to happen because such scrutiny does not require changes to the standing orders; indeed, the Local Government and Transport Committee is already conducting post-legislative scrutiny of the Transport (Scotland) Act 2001. What is required is for committees, the bureau and business managers to ensure that sufficient time is available for committees to conduct that post-legislative scrutiny, which is vital, as Susan Deacon rightly says.

The Procedures Committee proposes a timetable for stage 1 that is shorter than the Executive's recommended 12-week timetable for consultation. It is rare that stage 1 will be dealing with a proposal on which there has not been prior consultation; indeed, if we approve the proposals on members' bills today, that will be even less likely. There will usually have been a previous white paper, draft bill or consultation paper on the proposal. Stage 1 should be about identifying, first, the issues involved where changes have been made as a result of the pre-legislative consultation and why those changes have been made; and secondly, conversely, where there have been no changes, why no changes have been made. Although the debate at stage 1 is meant to be about the general principles, it also tends to

identify areas where amendments should be introduced. That is important. Stage 1 should not just be a rerun of previous consultations. Ultimately, there comes a point when "good consultation" means that the Executive or the Parliament agreed with me and "bad consultation" means that it did not agree with me. We should draw the line for where consultation should end.

The extra day for stage 2 amendments is important. It does not seem much to add one day into the process, but it will normally mean that the marshalled list will be available on a Friday to members considering stage 2 with a committee. The marshalled list will, we hope, also be available on the Parliament's website to outside bodies that may wish to contribute. That is important, and gives members the weekend in which to consider carefully any amendments that they may wish to lodge.

The extra day will allow both the marshalled list and the groupings to be available one day earlier at stages 2 and 3, and again that will assist members and outside bodies to prepare for important debates. That is particularly important at stage 3 because it will allow better planning of debates. For example, it will allow members to identify to which groups they want to contribute and feed that information to their business managers who, in turn, will feed it to the bureau. Hopefully, that will mean that timetabling motions will be better than they have sometimes been in the past, so the flexibility that we are building into timetabling might be less required.

There have been some helpful contributions to this afternoon's debate. Donald Gorrie said that we are moving in the right direction but mentioned that the committee could perhaps revisit the matter in the future. It is in our long-term work plan, so we might have a more fundamental root-and-branch look at how the legislative process in the Parliament has functioned to date and whether it is effective in doing all the things that it needs to do. However, that will come much further down the track. I suggest that we should not revisit timetabling for a considerable length of time, to allow the changes that we have proposed to bed in.

Committees can take evidence at stage 2 if they want to. If a fundamental amendment has come forward and a committee thinks that it does not have enough information to be able to make a decision on it, it can delay the discussion and create a pause in the process to take additional evidence. That provision has not been used yet, but it is there. If a committee told the bureau that it needed more time at stage 2 to take evidence on a particularly difficult amendment, I am sure that the bureau would consider the matter sensibly.

On the question of any member being able to speak at stage 3, I am not sure that I would go as far as Donald Gorrie, but it should be emphasised that there is a right in standing orders for anyone who is moving an amendment to speak to it. One reason for the flexibility that we are building into timetabling motions is to allow that to happen. Amendments will no longer be moved without anyone speaking to them unless the member decides that they do not want to speak to them.

Pauline McNeill made valuable contributions both in her evidence to the committee and today. Some of the points that she raised were reflected by Margaret Curran in her contribution, including the proposals on explanatory notes and financial memoranda. If our proposals are approved, there will be a requirement in standing orders for explanatory notes and financial memoranda to be updated at stage 3 if there have been significant changes at stage 2. We are particularly pleased that the Executive—much to our surprise—agreed to that.

The points that were made about marshalled lists and the availability of amendments are important. We had early discussions on them and I am pleased to say that the Parliament's legislative team is considering how it can improve documents. It is looking for some committees to volunteer to pilot the new documentation; I have a horrible feeling that the Local Government and Transport Committee might be experimented on when it considers the Transport (Scotland) Bill, but we will wait and see. We are considering ways to improve the documentation that is available to members and the public to make stages 2 and 3 easier to follow.

We also suggested that there should be a single list of amendments that have been lodged so that one does not have to cut and paste from copies of the *Business Bulletin* to keep up to date with amendments, and that suggestion has been examined if not already implemented. It will be possible to go to a bills web page before the publication of the marshalled list and find all the amendments that have been lodged to date.

I am pleased to say that I have just about managed to fill the time. I conclude by saying that we had some discussion with the Executive, the committee clerks and the legislation team about the commencement date for the proposals. We wanted a single commencement date so that bills are not running under the old system and the new system at the same time. It was thought best to introduce the changes at the end of the Christmas recess, so the proposals will come into play for all bills operating on or after 10 January 2005. That will allow time for the system to be implemented in a sensible way.

I commend the proposals to the Parliament and hope that members will support the motion and the amendments to standing orders that are contained in the report.

**The Deputy Presiding Officer:** There is not enough time for me to indicate that I would welcome a motion without notice to bring forward decision time to now, because by the time the minister has stood and moved a motion formally and I have asked for assent, it will be 5 o'clock, which it now is.

## Decision Time

17:00

**The Deputy Presiding Officer (Murray Tosh):** There are three questions to be put as a result of today's business. The first question is, that motion S2M-1984, in the name of Peter Peacock, on fostering, be agreed to.

*Motion agreed to.*

That the Parliament, in acknowledging that children thrive best in strong families, recognises the important role that foster carers play in providing a supportive and loving family environment for many of our most vulnerable children and welcomes the Scottish Executive's intention to invest in the future of the fostering service to increase the number of high quality placements and give local authorities resources to establish a fair and consistent system of allowances for foster carers.

**The Deputy Presiding Officer:** The second question is, that motion S2M-1957, in the name of Iain Smith, on a new procedure for members' bills, be agreed to.

*Motion agreed to.*

That the Parliament notes the Procedures Committee's 6th Report, 2004 (Session 2), *A New Procedure for Members' Bills* (SP Paper 193), and agrees that the changes to Standing Orders set out in Annexe A to the report be made with effect from 12 November 2004 but with new Rule 9.14A having effect only for as long as at least one Member's Bill introduced before that date remains in progress.

**The Deputy Presiding Officer:** The third question is, that motion S2M-1982, in the name of Iain Smith, on the timescales and stages of bills, be agreed to.

*Motion agreed to.*

That the Parliament notes the Procedures Committee's 7th Report, 2004 (Session 2), *Timescales and Stages of Bills* (SP Paper 228), and agrees that the changes to Standing Orders set out in Annexe A to the report be made with effect from 10 January 2005.

## Dying with Dignity

**The Deputy Presiding Officer (Trish Godman):** The final item of business is a members' business debate on motion S2M-1673, in the name of Jeremy Purvis, on dying with dignity. The debate will be concluded without any question being put.

*Motion debated,*

That the Parliament acknowledges the commencement of the select committee of the House of Lords' consideration of physician-assisted dying and euthanasia; further acknowledges the publication of an NOP opinion poll that showed that 82% of respondents in Scotland favour a change in the law to permit people with an incurable terminal illness close to death to seek help to die with dignity; is concerned that 39% of respondents in Scotland said that they would break the law if a loved one who became terminally ill and was suffering unbearably asked them to help them die; recognises the huge benefit to society and individuals of professionals, volunteers and carers working in palliative care and the hospice movement who work tirelessly with compassion and commitment but recognises that there are some people who will not be helped and that they will seek the right to die with dignity, and calls for a wide debate on end of life issues and consideration of a change in the law.

17:02

**Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD):** I thank the Parliamentary Bureau for giving me the opportunity to debate my motion. I also thank members who are resisting the lure of the politician of the year awards dinner this evening so that they can attend the debate, and I thank others who said that they wished to be here but could not.

My motion raises a wide range of complex and sensitive issues and asks for reconsideration of some people's most deeply held moral views. It also raises medical ethics questions. In calling for reconsideration of the law, I start a process that Parliament is suited to progressing, although we cannot, of course, address all the issues in the debate this evening.

My motion acknowledges the Executive's commitment through its investment in health care and the resources that are being directed towards palliative care. I pay tribute to the work of members who have been consistent and dedicated in their advocacy of more support for palliative care and for the hospice movement.

At the outset, I stress my admiration for all those—whether they are consultants, nurses, doctors, support staff, carers or others—who are dedicated to caring for patients and their families, alleviating pain, offering support and providing compassion and understanding at the most difficult times of patients' lives. Nothing that I say should be interpreted as undermining their work or

as questioning the real benefits that they provide. However, my view—and the reason why I initiated the debate—is that even with the support of palliative and other forms of care, some people who have terminal illness seek greater control of their lives at the difficult times at the end of their lives.

Several rights regarding our medical treatment are open to all of us. The British Medical Association recognises that a debate continues about autonomy—the patient's ability to have greater say over his or her treatment. I created a living will, or advance directive, 15 years ago, when that was rarely regarded as a reliable way to determine patients' views on their treatment. Today, advance directives are respected by the common law in Scotland and by guidance from the BMA and the General Medical Council. To disregard a valid advance directive that has been made when an adult was mentally capable and which is relevant to their medical condition is viewed as battery or assault.

After a landmark case in 1996, the then Lord Advocate, Lord Mackay, issued the statement that he would not authorise the prosecution of a doctor who—acting in good faith and with the Court of Session's authority—withdrawed life-sustaining treatment from a patient with the result that the patient died. On that case, Professor Sheila McLean of the University of Glasgow's institute of law and ethics in medicine said:

"What our law does, therefore, is to endorse decisions which will result in the deaths of certain patients (most notably those who cannot express a preference) but not those who are competent to ask for aid in dying."

The law in Scotland is not precise on physician-assisted suicide and euthanasia. For example, the authors of "Scots Criminal Law" state:

"Suicide is not a crime in Scots law and it is therefore not a criminal offence to attempt suicide. Encouraging or assisting another to take his own life is another matter, as the sympathy which the law has for the suicide does not necessarily extend to those who facilitate suicide. There is no Scottish authority on this issue; in other jurisdictions it is not unusual to find statutory provisions which penalise the provision of any assistance to the would-be suicide."

In Belgium, Switzerland, Germany, France, Sweden, Finland and—where assistance is provided by a medical practitioner—the Netherlands, assisted suicide is not an offence. In other countries such as Denmark and Norway, the penalties for such offences have been downgraded to as few as 60 days.

In Oregon in the United States, assisted suicide has been law since 1997 with the Oregon Death with Dignity Act, which allows for a patient to request medical assistance to die when there is a diagnosis of terminal illness and a prognosis of death within six months. Two oral requests

separated by 14 days must be made, and doctors and care staff are not forced to act against their consciences if they do not want to adhere to the measures in the act.

Furthermore, in Oregon there is a reporting mechanism, as there is in the Netherlands. One of the main criticisms of the experience in both Oregon and the Netherlands has been that it would be the start of a slippery slope of abuse that would draw in the most vulnerable people in society. Another criticism that I want to address is that it would take society's attention away from celebrating life to concentrating on death.

In almost every discussion and meeting I have with people in the medical professions—doctors, nurses and consultants—I ask the same sensitive questions: does assisted suicide happen today, and in what numbers? Invariably the answers are "Yes," and "We don't know."

None of us can ask parliamentary questions in this Parliament as our counterparts in Oregon can about how many requests for assisted dying there were last year or how many patients took a lethal dose of medicine. There is no transparency in the reporting of very sensitive cases and, when we consider the Catholic doctrine of double effect, there exists no means of finding out about the prevalence of such incidents. That is not a satisfactory state of affairs and, other than the charge of murder, there are few if any safeguards to protect the most vulnerable patients at the end of their lives.

To change the law and to bring in a law on assisted suicide would not introduce an environment that encourages the likes of Shipman. That environment exists today. What assurances are there for vulnerable people in society that another Shipman with another 215 victims cannot happen? Indeed, it is the case that by introducing a measure that has a clear reporting mechanism in which a patient makes a request to die, we would add to the multidisciplinary team of staff that will review cases and offer support. Removing what could arguably be called underground euthanasia or assisted suicide would be a social good.

I do not believe that a debate on the issue or a proposal to change the law is somehow to focus on death rather than to celebrate life. The testimony of some people in Oregon who have chosen to request medical assistance to die shows that they did so because their lives, as they chose to live them, were being robbed from them by illness and their conditions; seeking assurance that they had regained control of their life was itself a life-enriching experience.

The debate has also shifted preconceived ideas about quality of life. In the many meetings that I

have had with local faith groups and others, it has been argued that human dignity is a gift that cannot be taken away, but I do not share that view. Furthermore, there has been a gradual but firm growth in respect for individuals determining their own dignity and quality of life. As far as possible, individuals should be able to determine dignity in their death; it should not be determined by a court, a doctor, a nurse or a family member. Individuals should define the quality of their own lives.

Doctors in Oregon who have written or spoken publicly about physician-assisted suicide also speak of a new appreciation of what their patients experience. I quote one, who said:

"I have also redefined intolerable suffering. I now believe that it may occur in ways quite different from those that we as physicians normally consider and that intolerable suffering is best defined by the patient. My patient was suffering at the core of her being without agonizing pain, anorexia, or night sweats. She had become increasingly dependent on others for virtually all activities. Her dignity, her self esteem had been stripped away. The vitality of her being had passed. Yes, her life, as she defined it, had become futile."

How I define my quality of life might be different from how other members define theirs. Doctors, nurses, carers and loved ones who have spoken to me about their many experiences demonstrate clearly in my view that we cannot generalise on the difficult and complex reasons why people wish to end their lives when they suffer terminal illness.

Finally, I thank all the individuals who have brought their personal experiences to me, both in opposition to what I am proposing and in support of it. I know that my call for a wide debate has stimulated one. I received an e-mail today from a lady who wanted to tell me about her mother. She told me that her mother

"had a mastectomy in early 1966, having had a lump for some time which no-one took seriously. In 1969 she had a non-malignant brain tumour with complications. The socket filled with fluid and a permanent drain had to be inserted".

She went on to tell me—I quote from her e-mail—that

On the Saturday she went with her husband (my father) to her GP—he took one look at her and made an urgent appointment with her cancer consultant.

Monday was a bank holiday. My father was at work and my younger brother and his medical student wife were visiting the house. She locked away her diamonds, settled the grocery bill, left a note about the completion of some knitting for her grandson, and so on.

She then went up to an attic spare bedroom with some of her late mother's sleeping tablets, a jug of water, a glass, a bucket, a pad of paper and a pen. She took the tablets and died writing a note to her husband saying how wonderful he was.

She was found, as planned, by her son and his medic wife.

The coroner decided that it was not suicide whilst of unbalanced mind and cancer is on her death certificate.

She was 54."

Her e-mail ends:

"If your bill had been in existence, she could have seen her grandson (she was in Croydon, I in North Argyllshire), and we could all have said our goodbyes."

**The Deputy Presiding Officer:** A considerable number of members wish to speak, so we will have three-minute speeches. Michael Matheson will be followed by Michael McMahon.

17:11

**Michael Matheson (Central Scotland) (SNP):** I congratulate Mr Purvis on securing time for the debate. Members will be aware that I lodged an amendment to Mr Purvis's motion and I am grateful to the 15 members who have now signed that amendment, compared with the seven members to date who supported the motion in Mr Purvis's name.

Believe it or not, those who take an opposing view share some common ground with those who support the view that is expressed in Mr Purvis's motion. We all believe that someone who suffers from a terminal illness should be able to die with dignity. However, we differ in respect of how that should happen.

Members should have little doubt that massive strides have been made in the capacity of palliative care to deal with many of the complicating factors that recur in terminal illnesses. I have witnessed that first hand in relatives who have suffered from terminal illness and also in my professional capacity when dealing with individuals who have suffered from such illnesses. In every case I can vouch that they have suffered very little, but have died with dignity. Therefore it is wrong to try to give individuals the impression that dying with dignity is in some way linked to their choice of how to die.

Central to the argument in support of euthanasia is personal autonomy and self-determination. Diane Pretty took her case to the United Kingdom and European courts and stated that she should have the right to choose when she should die. She took her case as far as the European courts, which stated that the right to refuse treatment is far removed from the right to request assistance in dying.

There is an important distinction to make in the debate: euthanasia is not about deciding whether to switch off the life-support machine; rather, it is about actively deciding whether a person should die. It is a form of assisted suicide when the person might be able to live considerably longer.



If the Executive were minded to go down the route of supporting assisted suicide or euthanasia, there would be a major cultural change in our society that would impact on professionals, nurses, doctors and on the individuals concerned. To date, the Royal College of Nursing and the British Medical Association remain opposed to the idea of assisted suicide.

I refer to an e-mail that I received today from Mr Braine, a 64-year-old paraplegic in Aberdeen. He states:

"It is vital that people should not think of doctors, nurses, and hospitals with fear as if"

their going there at a certain stage in their lives might mean that their lives might be put to an end by others.

Doctors and nurses should not have any pressure put on them to make such decisions, nor should they put pressure on patients to decide whether they should end their lives. It is important that the Executive be clear that euthanasia does not have a place in our society today, and it is important that it make that message clear at the end of this afternoon's debate.

**The Deputy Presiding Officer:** I would appreciate members trying to keep their speeches to three minutes. It is difficult for me to try to stop you when you are speaking in this debate.

17:14

**Michael McMahon (Hamilton North and Bellshill) (Lab):** This is the second occasion this week on which we have discussed individual rights and freedoms. However, unlike the debate that we had yesterday, this debate puts the emphasis on a negative perspective on the value of life. Yesterday, Margaret Smith correctly told us that we should support a smoking ban because we should not support somebody's right to kill somebody else and because we should be doing what we can to protect people. That is a positive view of life that is full of hope for a better society.

I have worked closely with doctors and nurses in the palliative care and hospice movement, so I have come to understand just how difficult it is for anyone to make a judgment about what constitutes a worthwhile or worthless life. I have met lots of doctors who have had patients who valued their lives and who fought to preserve their lives in circumstances that the doctors viewed as being insufferable. Every palliative care professional can tell of a patient who has said that they often wished for the end of their life to come. It is my view that that leads, more often than not, to a valuable discussion about the various issues and allows an opportunity to deepen doctor-patient trust.

It is universally acknowledged that patients are reassured when they are told that expressing such thoughts will not result in action to terminate their lives. Experience also shows that it has been extremely rare for patients to make determined and persistent requests for their lives to be terminated. The doctor-patient relationship would be seriously compromised if patients could not express their distress lest it lead to euthanasia.

There is good evidence that a desire for death in terminally ill patients is closely associated with clinical depression. The desire for death can also vary with time and depression is, potentially, treatable. Delirium or confusion is common in palliative care patients and is sometimes so subtle that it is difficult even for clinicians to recognise it. It is impossible to be absolutely confident that a request for a life to be ended does not arise from a disordered state of mind, whether treatable or not.

Most doctors believe that any obligation on them to consider carrying out euthanasia or, if they have a conscientious objection to it, to refer the patient to a willing colleague, would be fundamentally at variance with their duty as doctors to honour the sanctity of life. I also think that the effect of such action on doctors would be enormous. The taking of life would diminish them as individuals and it would lead to psychological problems for many doctors in the long term.

Palliative care doctors tell me that clinical care is effective in alleviating suffering. That would be undermined by the practice of euthanasia. Obviously, there will be times when a doctor cannot help a patient clinically; not all problems can be fixed. However, even if we could be sure that a doctor was dealing with a competent and mentally sound patient with intolerable and untreatable suffering, the overwhelming majority still believe that the taking of life is wrong because of the clinical principle of non-abandonment.

Sometimes, all that a doctor can do is accompany the patient as a caring and even loving clinician who does not give up on them, even when they cannot remove the problem. It is precisely because humans are never worthless that we should attempt to alleviate suffering or, where we cannot do any more, still care.

17:17

**Mrs Nanette Milne (North East Scotland) (Con):** For the avoidance of doubt, I advise anyone who noticed that my name was on record as a supporter of the motion that that was due to a mistake on my part with an e-mail button. I meant to support the amendment in the name of Michael Matheson.

I accept the fact that people should be able to die with dignity, but that concept is already

embedded in good health care. Death is a continuum of life, and the concept of a good death is as vital a part of health care as the care and treatment of patients throughout life. In common with the BMA, I cannot accept that deliberately causing an individual's death is a valid or essential part of that concept. I am, therefore, opposed to euthanasia and physician-assisted suicide, and I do not wish there to be a change in the law to make that permissible. I can, however, accept the withholding or withdrawal of life-prolonging treatment from a terminally ill patient if the patient refuses such treatment or if it fails to be of benefit to the patient, even though death is known to be inevitable as a result. In my opinion, that is quite different from using medical skills actively to kill or to assist suicide and is, rather, an admission that medicine can do no more.

For me, a former health professional who is bound by the Hippocratic oath and trained to improve and prolong life where possible, the idea of actively and deliberately ending a human life is disturbing. I agree with the BMA that changing the law to permit assisted suicide would, in some cases, undermine patient trust in doctors and medical advice. A licence to kill or to assist in so doing would give the doctor a role that does not sit comfortably with that of healer and carer. In this country, especially after the notoriety of Dr Shipman, such a move would risk impairing the doctor-patient relationship, which is founded on trust.

I would far rather see palliative care stepped up and perfected in line with the gold standard framework, which, when implemented across the country, should allow patients in the final stages of life to live well and ultimately to have a good death that is physically free of symptoms, gives them a sense of safety, security and support and comes with care that responds to their needs. Such a framework will give support and information to carers and should boost staff confidence and aid communication between members of the health team.

Caring for palliative care patients and their families in such a special way will ensure that their issues are more likely to be dealt with properly and sensitively and that more people will be able to die in their place of choice. The gold standard framework already operates successfully in England and, thanks to generous funding from the New Opportunities Fund, Macmillan Cancer Relief and NHS Scotland, will soon be rolled out across Scotland. That is how we should improve palliative care and take the fear and pain out of death. Such an approach is infinitely preferable to going down the route of euthanasia and physician-assisted suicide.

17:21

**Eleanor Scott (Highlands and Islands)**

**(Green):** I am very happy to take part in this debate. However, I should apologise in advance for having to leave slightly early, because I have to attend the event that was referred to earlier. I should also declare that I am a member of the BMA but, as members will hear, my position on this matter is rather different from the position that the association takes. This is a conscience issue for the Green group in the Parliament, although I believe that we agree broadly on the principle.

I support Jeremy Purvis's motion, because I believe that the more that medicine advances, the more that grey areas appear between withholding treatment, withdrawing treatment or actively hastening a patient's end. I want to be clear that Jeremy Purvis's proposals cover neither the withholding of treatment by mutual agreement between the patient or their next of kin and the people who care for them, nor the withdrawal of treatment, which would include shutting off a ventilator on someone who has no hope. Both practices already happen and are quite accepted. Disputes sometimes arise, but they can be dealt with in the current system.

I signed the motion because I felt that the proposals would not mean that a patient's life would be ended without their consent. We must make that absolutely clear, as members have raised the question of trust between the patient and the health professionals who care for them.

I agree that palliative care in Scotland has to be improved and that facilities of the highest quality must be made available and supported. However, any palliative care package should, if appropriate, allow the patient to choose when they can end their life. Full consent for any such step must have been given when a patient was able to do so, or must be detailed in a living will that sets down in advance the circumstances in which a patient would want that course of action to be taken. I do not think that such an approach would undermine treatment. For example, a dying patient's depression is more likely to be actively treated if their express wish to end it all becomes an option. The issue will have to be explored thoroughly.

In any case, professional relationships with patients change as they move from the stage at which the health professionals are aggressively treating a serious and potentially life-threatening illness to the palliative care stage. The proposals simply represent one more progression in that relationship and can be handled in that way. That said, I respect the views of the BMA and the Royal College of Nursing on this matter. There needs to be a lot of discussion about the matter, but I do not think that the proposals undervalue human life. Instead, they value and respect human life, the

autonomy of human beings and their right to have the quality of life that they want to have up to the end. That is why I continue to support the proposals.

The motion calls for a wide debate. We are starting that process. A wide range of views will have to be taken into account, but this is a healthy debate for the public and health professionals to have and I am very glad that Jeremy Purvis secured tonight's debate.

17:24

**Mike Rumbles (West Aberdeenshire and Kincardine) (LD):** There is no question in my mind about the importance of this debate and I congratulate my friend and colleague Jeremy Purvis on securing it. Like many other members, I welcome this opportunity to make a contribution and certainly agree with the Moderator of the Church of Scotland that it is entirely appropriate that a debate on the subject should be held in the Scottish Parliament and in wider Scottish society.

I am very suspicious of people and organisations that attempt to portray moral issues in easy, dogmatic, black-and-white terms. As a Christian, I believe in the sanctity of human life but, as a Liberal, I believe fervently that I cannot impose my moral beliefs on others. I follow John Stuart Mill's philosophy that people should be free to take actions and be responsible for those actions, as long as they do not cause serious harm to others.

That is where I have real difficulty with Jeremy Purvis's motion and the issue of assisted dying for the terminally ill. If the law were to be changed to make suicide legal in certain circumstances, as Jeremy Purvis and others wish, I believe that immense pressure would be brought to bear on the most vulnerable people in our society—those who know and fear that they are near the end of their time here. Would people in those circumstances really be making a free choice? I do not think so. What message would we be sending to people—that they had outlived their usefulness and were a burden on society?

The question of free choice is central to the debate. In our civilised society, everyone has a right to life. We are talking about changing Scots law to reflect the provisions of the Assisted Dying for the Terminally Ill Bill in the House of Lords. The purpose of the bill is:

"to provide an option for terminal patients who are suffering unbearably to bring an end to their suffering at a time of their choosing, in a way that will not place vulnerable members of society at risk".—[*Official Report, House of Lords*, 10 March 2004; Vol 658, c 1316.]

Those are admirable principles, but in my view it would be totally impossible to put them into

practice. I do not believe that any proposals could deal with the indirect and even direct coercion that could and, I am sure, would occur in such circumstance.

I have no doubt that the change in Scots law that Jeremy Purvis and, I hope, not too many others are championing has been proposed for the best of reasons. Jeremy Purvis wants to change the law to help people in the direst circumstances. However, as a Liberal, I cannot support the proposals to change the law. I see the arguments for doing so, but I believe firmly that if we made such a change, we would breach John Stuart Mill's fundamental principle of freedom. We cannot allow people to do this, because it would precipitate real harm to the most vulnerable people in society. I urge members not to support a change in Scots law if, in due course, proposals come before us.

17:27

**Richard Lochhead (North East Scotland) (SNP):** I, too, congratulate Jeremy Purvis on securing the debate. It is important that our new Parliament should debate one of the few ethical issues that have been devolved to it and to Scotland.

I view sympathetically the introduction of legislation to allow physician-assisted dying or voluntary euthanasia. This is a challenging issue for politicians, as we must put our party-political baggage to one side and address seriously the legal and moral complexities. As individuals, we must both keep to our strongly held views and do our best to reach a rational, considered view. Finally, we must pay heed to public opinion. Recent opinion polls indicate that there is growing support for a change in the law.

In essence, this is a debate about the right to life. It is also a debate about the right to die, and the right to die with dignity. As Mike Rumbles said, it is a debate about supporting the principle of individuals' autonomy and freedom of choice. It boils down to whether someone who is terminally ill and whose physical and mental well-being is such that they have no quality of life, or prospect of that, may seek assistance to end their life because they are unable to do so themselves. As has been mentioned, it is legal in Scotland for someone to commit suicide but illegal for them to get help to end their life if they are unable to do so because of their illness.

I remember reading the very powerful, moving article that BBC Radio Scotland's Derek Bateman wrote in July 2001, just two months after the death of his wife from cancer. In the headline, he said that he believed that he could perform no greater duty for his wife than to end her life. The article

outlined the heartache and difficulties that face the loved ones of people with terminal illnesses.

Any legislation permitting physician-assisted suicide would have to be very tight. We would have to ensure that any request for assisted death was serious, rather than the result of a temporary emotional state, and that people were not making the request because they felt that they were a burden on their relations. We would also have to ensure that there was no let-up in the development of terminal care, to enable us to do our best to ease suffering for people with terminal illnesses.

Legislation would offer protection to general practitioners and physicians, who sometimes have a conflict of duties. They see their role as being to prolong life, but sometimes that means prolonging suffering. They would have to be at the heart of developing any policy change. I have noticed that the police, increasingly, support a change in the law because they sometimes find themselves in the difficult position of having to consider the prosecution of doctors or the loved ones of the deceased.

The issue has been addressed and legislated on in many countries throughout the world and we must learn lessons from what has happened in those countries.

Yesterday we debated a smoking ban in Scotland. That debate was about saving lives, but today's debate reminds us that there may well be a case for introducing legislative change that, in very specific unfortunate circumstances, may mean helping people to end their life.

17:30

**Paul Martin (Glasgow Springburn) (Lab):** The most cherished day of my life was 25 February this year—the day of the birth of my baby daughter, Abbie. I do not know whether I will be saying that at 3 o'clock tomorrow morning, but there is no greater gift to anyone than the gift of life. It is not up to Jeremy Purvis, any other MSP or any other person to decide that the gift of life should end.

I disagree with Jeremy Purvis's motion in the strongest possible terms. I do not think that he set out the argument compassionately; he set out a legalistic view.

The birth of life is a natural process and death should also be a natural process. Members have all said that the process of death is difficult; many of us have seen close relatives experience that process in very difficult circumstances. However, that process is not helped by a legal document such as the one that Jeremy Purvis says he set out for himself 15 years ago. The process is

assisted by the hard work of those who provide support and attention to people during that difficult time of their lives. I pay tribute to the Marie Curie hospice that is based in my constituency, which provides valuable support for people during that difficult process. I add my support to those people.

The focus of today's debate should be on the work of Michael McMahon and others in the cross-party group on palliative care and how we can support people properly during the process, instead of on a legal document that aims to ensure that we can assist people to die. There are many medical and legal arguments about which I hope we will hear no more during the debate; I do not want that debate to take place.

I do not always agree with Mike Rumbles. He and I are not known to share a platform in the Lib-Lab coalition, but he set out clearly the arguments against Jeremy Purvis's motion. I will stand shoulder to shoulder with Mike Rumbles for the first time ever as part of the coalition against the principles in Jeremy Purvis's motion.

Given the motion that Jeremy Purvis has lodged, I do not think that this is a proud day for the Parliament. I ask Jeremy Purvis to accept that the majority of Scottish people do not support the motion and that, certainly from what I have heard so far, other members do not support the motion. I ask every member in the Parliament to oppose Jeremy Purvis's motion in the strongest possible terms.

17:33

**Dennis Canavan (Falkirk West) (Ind):** The most basic of all human rights is the right to life. I trust that we all agree with that, but the motion before us seems to be based on the assumption that there is a corresponding right to die. As Michael Matheson said, the European Court of Human Rights has ruled that under the European convention on human rights there is no such right to die. After careful consideration, the court came to that conclusion because of the need to protect life and avoid the risk of abuse.

I agree with the judgment of the European Court of Human Rights. I also agree with the BMA and the General Nursing Council, both of which are opposed to euthanasia or clinically assisted suicide. The BMA and the Royal College of Nursing believe that it would undermine the relationship between patients and their doctors and nurses if their members were involved in assisting suicides. It would also frighten vulnerable people.

Legislators may attempt to define the legislation tightly to ensure that the consent of the patient would have to be obtained. However, as Mike Rumbles said, there would nevertheless be

enormous pressure on vulnerable people to consider using the legislation—for example, to avoid being a continuing burden on their families. Any such legislation would also enshrine in law the concepts that some lives are more valuable than others and that some lives are simply not worth living. I cannot accept that, and I cannot accept that there is no alternative. Indeed, the alternative is referred to in the motion, which

“recognises the huge benefit to society and individuals of professionals, volunteers and carers working in palliative care and the hospice movement”.

If high-quality palliative care were made available to all who needed it, it would overcome many of the reasons why people call for clinically assisted death.

I speak from experience within my own family. My son died in Strathcarron Hospice at the age of 16. He died prematurely but, thanks to the high quality of care, he died peacefully and with dignity. Nobody can ever claim that his life had no meaning or no value.

17:36

**Alex Neil (Central Scotland) (SNP):** I congratulate Jeremy Purvis on bringing the motion to Parliament. Although I agree with the substance of Paul Martin’s argument, I disagree that it is not right to bring such a motion before Parliament. We have to face difficult issues and we have to debate them openly and honestly in Parliament.

I do not come at the debate from an especially religious point of view, but from a humanitarian and pragmatic point of view. Jeremy Purvis said that the introduction of euthanasia would not open up a new world of Harold Shipmans, but I disagree. It might not motivate people to mass murder, but the few people who might be motivated towards mass murder of the Harold Shipman kind would have a very easy excuse if we introduced such a law. Too often in recent years, we have seen cases—not only the Shipman case, but many others, particularly in nursing homes where there are old and frail people, and sometimes even in children’s hospitals, both in this country and in North America—in which nurses have engaged in a kind of mass murder over a period of time. In their own minds, they have often thought that they were doing favours by bringing people’s lives to an end. They believed that people’s quality of life was no longer tolerable, or that the people were terminally ill and suffering too much. At the end of the day, I believe that life is life, even when issues around a person’s quality of life are very difficult. Sometimes people who are thought to be terminally ill actually make some kind of recovery.

If a person is dosed up to the eyeballs with morphine, for example, it is understandable that he or she will want to end their life because they are suffering so much. If a person is lying in a hospital bed and they see the pangs of pain on the faces of their dearest loved ones when they come to visit, it is perfectly understandable that that person will want to relieve their loved ones’ suffering, as much as their own suffering, by ending their own life as quickly as possible. In many cases, that would not be a rational decision, and accepting such decisions would not be a humanitarian approach to life.

People often talk about the classic case of a person being kept alive on a life-support machine. There is no similarity between deliberately ending someone’s life and switching off a life-support machine. I think that we would all agree that if someone is dependent on a life-support machine, switching it off at the right time is a tolerable and kindly act that is very different from euthanasia, which in my view is a cruel deception of humanity.

17:40

**Mr David Davidson (North East Scotland) (Con):** The people of Scotland expect us to face up to debating such serious issues. As a Christian, I am quite happy to participate in such a debate. I only hope that when the debate expands, it does not become too black and white. We sometimes assume that we in Parliament can act as God; I do not want a situation to arise in which a general practitioner or a clinician of any form can act as God by withdrawing life.

As a child, I watched my grandfather go through agonies as he died at home, using whatever palliative care was available at that time. I have never forgotten those memories. My father died of cancer in a hospital and suffered no pain—in fact, he died smiling. By the time my mother died, palliative care had again improved and she was able to live in her own home with the support of her family and all the local care workers. She died happily; in spite of her pain, she never said that she wanted to end her life. She rejoiced in what had gone on in her life and she told stories about things that I had not previously known about and all the happiness that she had experienced. That is the ideal picture of gold-standard palliative care; that is what we should aim for.

The hospice system is brilliant. It is underfunded and it is not properly provided for, so we should make far more attempts to increase the support that it gets.

The issue that we are debating involves huge pressure on families and patients. People who make living wills in their early 20s when they are fit and healthy might change their minds when they

become very ill. Will they be fit enough to be able to get out of such a will? I do not know the answer to that question because I am not a lawyer, but it raises serious issues to do with individuals' ability to change their minds.

I agree with Alex Neil about the withdrawal of treatment when medical science can do nothing more to prolong a life, but members of the caring professions cannot be put in situations in which they are asked to help people to die. As Nanette Milne said, they take oaths and they are trained to improve and prolong life. They work themselves to death—please pardon the pun—trying to save life. That is the model that we should be considering. My grandchild is home having suffered a very serious illness in the West Indies. She is a joy, but if the medical people had given up on her, she would not have the life that she has, or anything else.

I do not agree at all with where Jeremy Purvis is coming from. I have for him a quote about a report that was commissioned by the Dutch Ministry of Justice:

"there were over 3,000 deaths from euthanasia in the Netherlands in 1990. More than 1,000 of these were without an explicit request."

We must learn lessons from such matters. Quite simply, we do not need to tinker with the legislation we have; I see no reason to change it. We should be spending more of our time and effort on prolonging the quality of life for everyone on God's earth.

17:43

**The Deputy Minister for Health and Community Care (Rhona Brankin):** I am grateful to have the opportunity to respond on behalf of the Executive to a debate on a motion that is of the deepest interest to all members who are present.

End-of-life issues introduce a complex array of considerations that give rise to widely differing, but sincerely held, views and convictions that range from the ethical, the theological and the philosophical to cherished views on the sanctity of human life, and which embrace concepts of human dignity, as well as issues of choice and personal autonomy. Fundamentally, the subject touches on the relationship between doctor and patient and on the trust and confidence between them that is so essential to appropriate treatment and care.

I congratulate Jeremy Purvis and the other members who have participated in the debate on their measured, compassionate, sometimes heartbreaking but always thoughtful speeches. The time that is available does not allow us to do full justice to a subject of such intricacy and depth, but I will seek to address the points that are made

in the motion and, if possible, some of the issues that members raised.

First of all, it would be helpful if I briefly outline the law as it stands in Scotland. Under Scots law, an act of euthanasia by a third party, including physician-assisted suicide, is regarded as the deliberate killing of another and would be dealt with under the criminal law relating to homicide. The consent of the victim would not be a defence and no degree of compassion on the part of the person who carried out the act would amount to a legal justification. There might be cases in which the circumstances of the offence would make a charge of culpable homicide more appropriate than one of murder, and a court would take all the circumstances of the case into account before sentence was pronounced. However, if the accused was convicted of murder, a sentence of imprisonment would be mandatory. I add that doctors are bound by both the law and professional ethics and cannot take or be required to take any action that conflicts with either of those duties.

As any proposal for a member's bill would involve issues of conscience, the Executive's stance would be neutral. We will listen carefully to the public debate and offer advice on what we consider to be the key issues and implications in the context of our present laws, which we have no plans to change.

On the detail of the motion, as Jeremy Purvis has described, a select committee of the House of Lords is currently considering a bill—the Assisted Dying for the Terminally Ill Bill—which was introduced by Lord Joffe and seeks to enable a competent adult who is suffering unbearably as the result of a terminal illness to receive medical help to die at his own considered and persistent request. The select committee's report will no doubt provide helpful further analysis and perspectives that will inform further consideration of the issues that are involved.

The motion refers to the publication of the NOP opinion poll that was commissioned by the Voluntary Euthanasia Society and to some of its findings. As with all opinion polls, the results are of interest, but we need to recognise that the sample size was limited and that many organisations, such as the BMA and the Royal College of Nursing, as well as individuals, remain opposed to euthanasia. Nanette Milne referred to the BMA's position, which sets out cogently the reasons why it opposes euthanasia and physician-assisted suicide, including the issue of trust between doctors and patients to which I have referred and the potential effects on vulnerable people, such as the elderly, the dependent, the disabled or the extremely ill. Those are powerful points.

The motion properly acknowledges the huge contribution of those who work in palliative care and the hospice movement, and I echo the motion in commending them for their unflagging and compassionate commitment. Many members have acknowledged the importance of palliative care, and we in Scotland can be proud of our work in that area, with its sensitive provision of emotional, social and spiritual support and pain relief, which enables patients to achieve the best quality of life during the final stages of their illnesses.

The Scottish Executive encourages the dissemination of the principles of palliative care throughout the national health service in Scotland, as well as in the voluntary sector, and recognises the role of palliative care from the time of diagnosis onwards, not only in the terminal phase of illness. As an illustration of our commitment to palliative care, I tell members that, of the £25 million recurring, ring-fenced funding for cancer in Scotland, some £5.3 million was invested in palliative care services in the three years from 2001 to 2004, and almost £2.4 million is available on a recurring basis from 2004-05 onwards. That investment has been used for staffing, training and equipment to support improvements in patient care in the community, but our policy is broadly one of palliative care for all, and that means making the palliative care approach available not only to those with cancer, but to anyone who suffers from a progressive, incurable illness. We are committed to that approach and will ensure that effective palliative care services are supported.

The motion also calls for

“a wide debate on end of life issues and consideration of a change in the law.”

It is clear from the range of members' comments that euthanasia is a hugely complex and controversial area that raises a raft of difficult moral, ethical and practical issues on which strong, widely differing views are held. As I have said, the Executive has no plans to change the law. However, we will take note of what has been said in the debate, just as we will consider with interest the report of the House of Lords select committee when it emerges.

This is not an issue on which it would be appropriate to rush to hasty, ill-considered proposals or conclusions. The subject has immense implications and consequences for the whole of society. The debate has been valuable in illustrating just how deeply the views on all sides are held.

*Meeting closed at 17:50.*





Members who would like a printed copy of the *Official Report* to be forwarded to them should give notice at the Document Supply Centre.

No proofs of the *Official Report* can be supplied. Members who want to suggest corrections for the archive edition should mark them clearly in the daily edition, and send it to the Official Report, Scottish Parliament, Edinburgh EH99 1SP. Suggested corrections in any other form cannot be accepted.

The deadline for corrections to this edition is:

**Thursday 18 November 2004**

Members who want reprints of their speeches (within one month of the date of publication) may obtain request forms and further details from the Astron Print Room, the Document Supply Centre or the Official Report.

#### PRICES AND SUBSCRIPTION RATES

##### OFFICIAL REPORT daily editions

*Single copies: £5.00*

*Meetings of the Parliament and annual subscriptions: £350.00*

The archive edition of the *Official Report* of meetings of the Parliament, written answers and public meetings of committees will be published on CD-ROM.

##### WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

*Single copies: £3.75*

*Annual subscriptions: £150.00*

Standing orders will be accepted at the Astron Print Room.

Published in Edinburgh by Astron and available from:

**Blackwell's Bookshop**  
53 South Bridge  
Edinburgh EH1 1YS  
0131 622 8222

**Blackwell's Bookshops:**  
243-244 High Holborn  
London WC1 7DZ  
Tel 020 7831 9501

All trade orders for Scottish Parliament documents should be placed through Blackwell's Edinburgh

**Blackwell's Scottish Parliament Documentation**  
Helpline may be able to assist with additional information on publications of or about the Scottish Parliament, their availability and cost:

**Telephone orders and inquiries**  
0131 622 8283 or  
0131 622 8258

**Fax orders**  
0131 557 8149

**E-mail orders**  
[business.edinburgh@blackwell.co.uk](mailto:business.edinburgh@blackwell.co.uk)

**Subscriptions & Standing Orders**  
[business.edinburgh@blackwell.co.uk](mailto:business.edinburgh@blackwell.co.uk)

**RNID Typetalk calls welcome on**  
18001 0131 348 5412  
Textphone 0845 270 0152

[sp.info@scottish.parliament.uk](mailto:sp.info@scottish.parliament.uk)

All documents are available on the Scottish Parliament website at:

[www.scottish.parliament.uk](http://www.scottish.parliament.uk)

**Accredited Agents**  
(see Yellow Pages)

and through good booksellers