

# **MEETING OF THE PARLIAMENT**

Thursday 16 June 2005

Session 2

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## Scottish Parliament

Thursday 16 June 2005

[THE PRESIDING OFFICER *opened the meeting at 09:15*]

### Management of Offenders etc (Scotland) Bill: Stage 1

**The Presiding Officer (Mr George Reid):** Good morning. The first item of business is a debate on motion S2M-2775, in the name of Cathy Jamieson, that the Parliament agrees to the general principles of the Management of Offenders etc (Scotland) Bill.

09:15

**The Minister for Justice (Cathy Jamieson):** Reoffending is corrosive. It tears at families and neighbourhoods, erodes public confidence in criminal justice and saps the efforts and energies of the police and all who work hard every day in our courts, community justice services and prisons. People who offend and offend again clog up our courts and fill up our prisons, often on short sentences. They distort the criminal justice system, which requires more and more effort and resources simply to catch and secure them when those energies and resources would be better used to challenge them to return to law-abiding lifestyles.

In Scotland in 2002, two of every three convicted offenders had at least one previous conviction. Six out of 10 offenders who were released from jail in 1999 were convicted of another offence within two years and one offender in every two who were released from jail in 2001 was returned to jail within two years. That is simply unacceptable, but it is not only about offenders reoffending and being sent to prison again. Of those who received a probation order in 1999, 58 per cent were reconvicted of another offence within two years, while 42 per cent of offenders who began a community service order and 40 per cent of those who were fined were reconvicted for further offences.

Many repeat offenders who end up in prison have already served community sentences, so we must break the cycle of repeat offending. Not only do we need community sentences that work and in which the public have confidence, but we must have custodial sentences that rehabilitate as well as punish. We must have proper sentence management that reduces reoffending and delivers the safer communities that the people of Scotland deserve. Therefore, I am pleased to

open the stage 1 debate on the Management of Offenders etc (Scotland) Bill, which is another step in our radical reform of our criminal justice service.

The bill creates a new framework for integrated management of offenders in order to reduce reoffending. It will introduce a home detention curfew scheme to help to manage the return of selected low-risk prisoners from custody back into the community, and will further tighten how we manage sex offenders. It will also establish a further deterrent to people who would offend or reoffend: the Criminal Injuries Compensation Authority will be given powers to recover from offenders the cost of compensation that is awarded to the victims of crime, which will send out a firm message that crime does not and will not pay.

I will address first the new measures for integrated offender management. I am sure that we all agree that we need to get to grips with offenders, particularly repeat offenders, so that they are less likely to reoffend and less likely to keep churning through the system. We know that the current system is not working: the figures speak for themselves and the findings from last year's consultation echo those failings. I have said repeatedly that when we are faced with a challenge such as this, the status quo is not an option, which is why we have listened and are acting. We are providing leadership and intend to provide national direction.

A new national advisory body will be set up to give a national focus to efforts to reduce reoffending because, for too long, too many services have been pulling in too many different directions. Locally, we need better joint working and better sentence management, which is why the bill will place a new statutory duty on local authorities and the Scottish Prison Service to work together in local partnerships to reduce reoffending. It will also establish new community justice authorities, which will bring together local authorities for co-ordinated service delivery, lead local plans for reducing reoffending and be locally accountable and nationally scrutinised.

We must also get to grips more with offenders' return from prison to communities, so the bill will introduce a home detention curfew scheme that will help to manage the return of selected low-risk prisoners from custody back to the community. The scheme will allow certain prisoners to serve the remainder of their sentences differently: in the community and subject to curfews that will be verified by a robust electronic monitoring system. I make it clear that home detention curfew will not be an automatic entitlement for prisoners, but will be considered only for prisoners who pass a robust risk assessment. It can offer a way of helping offenders to rebuild relationships and to

participate in employment or training and so help them to settle back in the community while facing up to their criminal actions. Those are all steps that we know can help us in the fight to reduce reoffending.

Events of the past few months tell us that, when it comes to managing sex offenders, criminal justice agencies must be ever vigilant and work ever more closely together if they are to reduce the risk that is posed to our communities and, in particular, to our children. We recognise the proper public concern about sex offenders. We hear that concern and we are continuing to act. The bill will place a new duty of co-operation on chief constables, local authorities and the Scottish Prison Service. It will set up joint arrangements between those services to assess, monitor and manage the risk that sex offenders pose and it will strengthen the sex offender monitoring process by closing a loophole for those who seek to evade the requirements of the sex offenders register.

In March, the First Minister announced a proposal to make all sex offenders who are sentenced to imprisonment for six months or more subject to conditions on their release, on which they would be supervised and liable to recall to prison if they failed to comply. We asked the Sentencing Commission for Scotland for its views on that proposal, but it felt that it could not support our proposal in advance of its wider review of early release. We note that view, but ministers have a duty to protect the public and we believe that it is right to make the change, even in advance of the further work on early release. Therefore, we will introduce the proposal in an amendment at stage 2.

**Miss Annabel Goldie (West of Scotland) (Con):** The minister alludes to an important issue. I understand from a Press Association press release that was issued overnight that the Sentencing Commission's chairman, Lord Macfadyen, wrote to the minister saying that, if the Executive was taking that step on the basis that sex offenders posed a greater threat to public safety than other types of offender, the commission was unhappy because it felt that there had to be a consistent approach. I welcome the steps that the Executive is taking—they do not go far enough for me, but they travel in the correct direction—but if that is the Sentencing Commission's view, is there not a strong argument that the Executive should question the whole concept of automatic early release?

**Cathy Jamieson:** Members are able to read the Sentencing Commission's letter; it is published on the commission's website. The important point is that we asked the Sentencing Commission to do a number of things: we asked it to examine bail and remand, as members are aware, and to examine

the concept of early release, on which it will carry out a consultation at some point in, I hope, the not-too-distant future. Given that we have already signalled our intention to try to do something on sex offenders, it is important that we take that forward. I have heard it said that sex offenders are less likely to reoffend than some other offenders, but we need only consider the consequences of such offending for the victims—whose experiences often leave them with lifelong trauma—to realise that we must do everything that we can to close loopholes.

Annabel Goldie is aware of my concern about ensuring that we get the balance right on general early release in the future. We will do more work on that, but it is proper that we introduce measures on early release of sex offenders in an amendment to the bill so that we can tighten the current legislation. I hope that what Miss Goldie said indicates support from the Conservative party for that measure.

**Stewart Stevenson (Banff and Buchan) (SNP):** Does the minister agree that, although the figures show that sex offenders are least likely to reoffend, that is partly due to the difficulty in detecting and convicting them and that it is highly likely that, although reconviction rates for sex offenders might be low, reoffending rates might not necessarily be so?

**Cathy Jamieson:** Stewart Stevenson makes a valid point. The possibility that he suggests is one of the reasons why I feel that it is right and proper that we introduce the proposed measures. In some instances, patterns of offending behaviour by sex offenders mean that a considerable time might pass between offences for which they are caught and punished—although that does not mean that they are not necessarily a risk to the public. I stress that that is why we are introducing our proposals.

I mentioned the Criminal Injuries Compensation Authority. It is important that we encourage offenders to face up to the consequences of their offending behaviour whenever we have the opportunity to do so. Section 13 of the bill will give the Criminal Injuries Compensation Authority powers to recover from offenders the cost of the compensation that is awarded to the victims of crime. I believe that, when a crime has been committed and when compensation has been paid from the public purse, it should be possible for the authority to claim that sum back from the offender.

A stronger, safer Scotland needs a criminal justice service that protects the public and punishes offenders, but it must also offer a second chance to those who would benefit from that and who are prepared to take the chance. I believe that the bill will support those aims by creating a

stronger system for management of offenders and by reducing reoffending.

I thank the members of Justice 2 Committee, and of course the committee's clerks, for conducting their careful stage 1 consideration of the bill. I followed the evidence sessions with great interest and I have read the committee's report thoroughly. I am glad that so many people who are involved in criminal justice services took the opportunity to come along and present their views. I recognise that there exists a range of views and opinions on a number of issues, which is why it is important that Parliament has the opportunity to scrutinise them. I believe that the committee did that job extremely well at stage 1 and I have no doubt that it will continue its thorough scrutiny at stage 2. I am pleased that the majority of committee members endorse the principles of the bill, although I appreciate that some members felt that they could not do so. I will of course be considering closely the recommendations in the committee's report, and I will try to respond to them in writing prior to the commencement of stage 2.

I hope that we will have a useful debate this morning. Previous debates have shown quite a degree of consensus in Parliament that the time is right to do something. We must move forward, tighten up the processes and ensure that we have a better system for managing offenders, whether they are in custody or in the community, and we must balance punishment and rehabilitation and keep public safety at the heart of our concerns. That is why I am delighted to move,

That the Parliament agrees to the general principles of the Management of Offenders etc. (Scotland) Bill.

09:28

**Stewart Stevenson (Banff and Buchan) (SNP):** I start by welcoming the aims of the bill. The real question is whether it will make a difference in practice. There is a shared belief, in Parliament and in society, that we must reduce reoffending. Whether we do that is the absolutely key test of sentencing policy and practice. The minister alluded to the fact that in 2000, 30,000 people in Scotland were convicted of crimes, nearly 20,000 of whom were already offenders. As I said during my intervention on sex offenders, that is only the tip of the iceberg because we will not detect all those who reoffend and we will certainly not reconvict all those who reoffend.

It is important that we keep in mind the fact that sex offenders are uniquely difficult to reform. We might be able to put them through programmes to reduce their tendency to offend, to help them detect any return to offending behaviour and to seek the appropriate help, but we are unlikely to change sex offenders from people who have

aberrant attitudes to sexual matters into people who have normal attitudes. Generally, however, there is more hope for prisoners.

Are we making progress? Our prisons had, on average, 300 more prisoners inside them in 2004 than in 2003. At £35,500 per year per prisoner, that had better work. At some point in 2004, more than 7,000 Scots criminals were banged up. We must indeed be a lawless nation, although we are clearly not a nation without laws. The bill is yet another attempt to add to our laws, but will it subtract from our prison costs and will it reduce crime? Only Portugal, which has 127 prisoners per 100,000 population, and England and Wales, which have 124 prisoners per 100,000 people, lock up more people than Scotland, which locks up 115 people per 100,000. The last resort, imprisonment, has for rather too long seemed to be our first response.

Imprisonment does, of course, protect society—for a while. If six out of 10 prisoners say, as Oliver Twist did,

"Please, sir, I want some more",

we have to question whether prison actually works. The minister has a target of reducing reoffending by 2 per cent. That is welcome, but I must say that it is modest.

**Cathy Jamieson:** I assume that the member has been following the evidence during the Justice 2 Committee's deliberations and is aware of how difficult it is to set a target and to make it meaningful in practice. International experience confirms that. Will the member agree, as I hope he will, that although 2 per cent is the target that has been set, it would be for the proposed national advisory board to consider whether that is the appropriate target for the future, and whether further targets should be set at a later date?

**Stewart Stevenson:** I welcome the fact that there is a target, and I thank the minister for her intervention. I suspect, however, that the target's modesty will continue to exercise us for a while. The bill can deliver its bit, and that is a good enough reason to support it.

I turn to community justice authorities and home detention. My colleague, Tricia Marwick, who is on the case as far as this subject is concerned, will talk in particular about the Colyn Evans case, in which she has a special interest.

**Miss Goldie:** Does the Scottish National Party have any concerns about the practical effect of the bill, in that it will let certain convicted criminals out of prison even earlier than is the case now?

**Stewart Stevenson:** The home detention curfew will let people out up to 135 days earlier. If that aids their reintegration into society, reduces estrangement from their families—which is a key

element in their remaining part of society—it will be good news. That must be balanced, as I am sure the Conservatives will be aware, against the level of protection that comes from the knowledge that people are banged up away from society. The argument must be about the balance of increased risk and increased advantage. So far, we are quite convinced that the earlier we reintegrate people into society, the greater the benefit will be.

We welcome the minister's change of heart on community justice authorities. She was persuaded by the vociferously expressed opinion of local authorities in particular that she should not proceed with a national community justice authority, but instead go for local justice authorities. The establishment of a national authority would have been seen as yet another centralising move, which would run counter to the Local Government in Scotland Act 2003, through which we delivered more power to local authorities to take control and to deliver against local needs. The minister's response to those opinions is welcome.

However, do we need a chief executive and extra staff—however few—to undertake responsibility for all those community justice authorities, given that fire boards and joint police authorities can be managed simply by integrating responsibility for those bodies into the responsibilities of senior local government office bearers? I would have to give a not proven verdict on the current suggestions, but that matter can be addressed as our consideration of the bill continues and is no reason to oppose the bill. We will hear what the ministers have to say on the matter.

Other countries—Denmark, Norway, Sweden and Finland spring to mind—have structures that bring together prison and community offender services, and we welcome moves to build on that experience. Such structures can improve lines of communication, enhance information sharing and build more coherent and organised structures to help offenders and the community as a whole.

The CJAs must do what it says on the tin. The different cultures, structures and skills mixes of local authorities, police, the national health service, the Crown Office and Procurator Fiscal Service, the Scottish Courts Administration and registered social landlords and the vital role of the voluntary sector can be melded to increase effectiveness or—if we get it wrong—merged in a Pol Pot-style year zero situation that will set back the cause of community justice for a decade. I am inclined to believe that we will achieve the former, but we must be alert to the danger of the latter.

Ministers will know that I have been a vigorous critic of the Scottish Prison Service and I share much of the frustration that ministers have

experienced with it. The bill may represent an opportunity to do something about its performance.

I turn to home detention curfews. Maggie Thatcher—the Tories should listen up—said that prison is an expensive way of making bad people worse. HDCs might help. Of course, Jonathan Aitken, a former Tory, has some experience of them, so he might give the Conservatives advice about their worth. The evidence from England on whether they work is mixed.

The bill is a work in progress, rather like too many bills that we have seen of late. We can see that at least one minister is finding the ministerial seat quite hot today. My whip will not let me take my jacket off whatever the temperature.

Alternatives to prison can work, but that is far from automatic. Reform in society is just as important as reform in the criminal justice system, so we have to address societal needs. Finland, with its low offending and incarceration rates, has much to teach us about handling crime and on how and when criminals and countries take responsibility for their affairs and improve their performance.

09:37

**Miss Annabel Goldie (West of Scotland) (Con):** I make it clear at the outset that I speak in this debate on political issues as the Conservative spokesman on justice, not as the convener of the Justice 2 Committee. However, as convener of that committee I express my appreciation to my colleagues on the committee, our clerks and the various witnesses, including the minister, who came before the committee, for their collective and respective efforts in producing information, collating it and being prepared to debate it so that we could reach a majority committee view. I thank the minister for her kind acknowledgement of the work that was undertaken.

**Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD):** Will the member give way?

**Miss Goldie:** Not at the moment.

For political reasons, on which I shall expand in the course of the debate, I was unable to support the majority committee view and dissented from supporting the bill at stage 1 in the committee. I accept that the spirit of the bill is well intended and my party acknowledges that the management of offenders is a vital aspect of our justice system that must be given more time and consideration. If we really want to rehabilitate criminals and deter people from committing crime, they have to know that they will serve a sentence that both reflects the gravity of the crime and gives them the chance to be rehabilitated. I think that Mr Stevenson



acknowledges that the question how we achieve those objectives in practice raises serious questions about the proposals in the bill.

In the limited time that is available to me, I propose to concentrate on the two major aspects of the bill that present problems to me. The first is that the bill is to be enacted within the existing regime of automatic early release from prison of convicted criminals. We know that the public at large are bewildered by automatic early release. They regard it as confusing. Given recent high-profile cases in which persons who were at liberty through automatic early release have committed serious crimes, both the public and victims have good cause to question why the regime continues.

In my party's view it is irresponsible of the Scottish Executive, and unacceptable from the standpoint of public safety, to introduce a bill that contains provisions that will allow persons who have been convicted of serious crimes, but who will already get out of prison early under automatic early release, to get out even earlier.

**Bill Butler (Glasgow Anniesland) (Lab):** Will the member give way on that point?

**Cathy Jamieson:** Will the member give way?

**Miss Goldie:** I give way to the minister.

**Cathy Jamieson:** Does the member accept that I have made it clear in the information on the bill that I submitted and in the evidence that I gave to the committee that a number of offences for which people had been convicted and imprisoned would not come under the home detention curfew scheme? That point is important.

**Miss Goldie:** Yes. I accept what the minister says, but I draw to her attention a comment that the Home Secretary, Mr Jack Straw, made in 1999 about home detention curfews. He said:

"We have no plans or intention whatever to provide for electronic tagging to facilitate the early release of serious or sexual offenders. Let me make that clear, with a full stop—none whatever."—[*Official Report, House of Commons*, 29 November 1999; Vol 340, c 27.]

Yet, as we already know from the experiment in England, matters have not proceeded in a positive way.

**Bill Butler:** Will the member take an intervention?

**Miss Goldie:** No—I am sorry.

The Scottish Executive might be able to explain away that strategy. It is, no doubt, driven by a desire to reduce the prison population by seeking to improve the lot of prisoners. However, the Scottish Conservatives consider that the priorities must be the safety of the public and the best interests of victims. It seems to me that neither of

those paramount considerations will be protected by the bill.

In short, if the Scottish Executive will not stand up for public safety and victims, the Scottish Conservatives will. I make it crystal clear that we cannot support the bill for as long as automatic early release applies to prison sentences. We are prepared to lodge an amendment at stage 2 to end automatic early release and if the Executive is prepared to support it, we will support the bill.

The other area of serious concern that I had when listening to the evidence that was presented to the Justice 2 Committee by the Association of Directors of Social Work and the Convention of Scottish Local Authorities is the proposed statutory creation of community justice authorities. A useful co-ordination of activity and co-operation between agencies has been achieved since 2002 by the 14 funding and planning units that were constructed on the basis of local agreement and consensus.

**Stewart Stevenson:** Will the member take an intervention?

**Miss Goldie:** I am sorry, but I really am pushed for time. I apologise.

**The Presiding Officer:** There is a bit of time in hand this morning, so you can have another two minutes if you wish.

**Miss Goldie:** In that case, I will take the intervention.

**Stewart Stevenson:** Ending of automatic early release would mean that there were more people in prison. I have done a quick sum: I think that would cost between £100 million and £150 million extra a year. Does the member think that that is the best way of spending money in the criminal justice system?

**Miss Goldie:** I think that that is a question that Mr Stevenson should pose to the public and to victims and their families. My clear impression is that there is huge concern in Scotland about public safety and, equally important, about confidence in our criminal justice system. To me, the political priority of the Scottish Executive has to be to have regard to that fundamental public concern, which is what I am addressing. If the way of addressing that concern is to increase prison capacity, then it is the political imperative of Government to achieve it.

On the existing structures, I would have thought that there was significant merit in allowing the current partnerships to continue because they meet the aspirations of, and provide the necessary flexibility for, different areas in Scotland.

In evidence, COSLA stated:

"structures of themselves will not deliver either improved outcomes or worse outcomes. It is the ... activity that goes

on that is important.”—[*Official Report, Justice 2 Committee*, 12 April 2005; c1493.]

That is a sensible observation.

We ask our social work departments to bear an intensifying workload and to discharge an exacting level of responsibility. Much of that is attributable to legislation that has been passed by Parliament. I would have thought that a period of consolidation and assessment would be preferable to imposing further statutory bureaucracy on those hard-pressed departments.

**The Deputy Minister for Justice (Hugh Henry):** The member talks about a period of good co-operation—which is working well—and about further co-operation and consolidation. We have heard the arguments that say, “Give us a bit more time” and “Give us a bit more money”. Despite the time and money, we hear month after month and year after year about cases in different parts of the country where the system, not individuals, is letting the community down. What does Annabel Goldie propose to do about the systemic and systematic failures that threaten communities?

**Miss Goldie:** There is a considerable advantage in listening to the views of the people who are working in the sector, which I consider to be authoritative.

It seems to me that when the partnerships to which I referred have been in operation only since 2002 and we have a devolved Parliament, a Scottish Executive and a Justice Department, there is ample opportunity to implement the process of consolidation and assessment to which I referred. There is a clear ability, particularly through Audit Scotland, to test what is happening and then to make any necessary adjustments through administrative change. However, I find the proposed imposition of a statutory framework to be alarming because I think that it will exacerbate problems.

In relation to what Mr Stevenson said, the inescapable conclusion that I have reached is that the Executive’s original suggestion—it was subsequently dropped—for a single correctional agency was unpopular and provocative. The suggestion has now been revived, by another name, in little local bits. I have a great deal of sympathy with the view that the estimated running costs of each community justice authority, of about £200,000 a year, could be better used to fund front-line services and to enhance programmes that are already being delivered. For those reasons, I do not find that a convincing case has been made for the creation of those authorities; I dissented in committee from supporting their creation. Unfortunately, the strictures of today’s debate constrain the opportunity for extended

discussion, but for the reasons that I have stated, my party will not support the bill at stage 1.

09:46

**Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD):** I welcome the publication of the bill and the debate this morning. I also welcome Miss Goldie’s clarification in her speech that she speaks on behalf of the Scottish Conservatives rather than the Justice 2 Committee. I hope that she might instruct her party to remove from its website the headline, “Justice two convenor refuses to support management of offenders bill.” That might clarify her position further.

There should be little doubt that one of the biggest factors in the crime rates in Scotland is that people who have committed an offence commit another offence within a relatively short period after their release from custody. The minister outlined the figures this morning.

There is double concern for the communities that have had to put up with a further offence being committed in their area because, although the offender had gone through the justice system then the prison system, the state has in effect failed to rehabilitate that individual. In many cases, it is hard to rehabilitate successfully, as Mr Stevenson said. Often, however, the system actively discourages rehabilitation as a result of long delays in cases being brought to trial and an unfortunately high level of short—in some cases, very short—prison sentences being imposed.

Just as we must ensure that our justice system is transparent, fair and efficient, so we must ensure that it is effective in reducing the number of offenders who commit an offence for the first time and the number of those who reoffend once they have been punished. I am certain that the measures in the bill will help in that endeavour.

In our stage 1 inquiry, the committee explored many of the complex issues associated with the subject and inevitably, given that the bill is about structures, we gave much consideration to inter-institutional issues between social work, the police, the court service, the Executive and local authorities. I do not deny that those issues are important—of course they are—for morale and for leadership at the top of the organisations right through to all the staff who work in their fields, who are often extremely committed individuals doing their best. However, that means nothing to our constituents, who simply want the system to deliver better justice.

Community justice authorities will give a focus to what the Justice 1 Committee asked us to do in its recent report on rehabilitation in prisons, which was to give a clearer definition of rehabilitation,

what it means and what is required to make it more effective.

We will fail to reduce reoffending if we continue to deny a greater emphasis on equipping individuals with some of the structure that is missing from their lives and on giving them the skills and support that they have not had. With a statutory duty on all agencies to work together, however, they will do so. It could be argued that, until now, the scene has been patchy. There are some examples of excellent partnership working in Scotland, as I know from my Borders constituency, and many areas are leading in partnership working. However, other areas could benefit from learning from best practice.

I understand that the Conservatives will not support the bill because they believe that the case has not been made for statutory change to structures. That is the ground on which they dissented from the committee's report. David Croft, the governor of Edinburgh prison, said in evidence:

"On the quality of the partnerships, one of the questions asked was why it is necessary to create a structure to make all this work if it is working okay just now. There is nothing in my management experience that contradicts the view that without a structure we will never get anybody accountably delivering anything. I am talking about the size of the present reoffending problem in Scotland. That is where I believe the proposed structure would be a benefit."—[*Official Report, Justice 2 Committee*, 19 April 2005; c 1538.]

Structures are important and they will be effective if we can ensure that all agencies have a duty to work together. The Conservatives seem to oppose that duty. That will not be understood by my constituents or indeed by the communities that the Conservatives claim to represent.

In February, the Justice 1 Committee's report on rehabilitation in prisons quoted professionals as saying:

"There is a sense that rehabilitation deals with recent matters ... [but] some of the people with whom we work have long-standing problems since their early childhood. The 're' in rehabilitate is not an option for many people who have had long-standing problems."

I am aware that the Justice 2 Committee's work on the bill has been limited, inevitably, to the scope of the bill. However, without a proper and mature debate on earlier intervention we will not begin to address the problem.

Paragraph 13 of the Justice 1 Committee's report, which we debated in Parliament, states:

"offenders may never previously have been integrated to society."

I welcome Mr Stevenson's comments about integration into society. Trying to turn away the tide, as the Conservatives seek to do, is neither progressive nor will it be effective.

Although many individual offenders have not integrated into society, it is unlikely that those individuals will not have been known to public agencies such as the police, social work departments, education authorities or the hearings system—all the agencies that will work together in community justice authorities.

Information from the Scottish Prison Service report, "Young People in Custody in Scotland, An Occasional Paper", showed us that 76.2 per cent of all young people in custody had a history of regular truancy; 43.6 per cent had attended special schools; over 9 per cent had reported previous contact with the children's hearings system; over 63 per cent had close friends who were involved in criminal activity; and 52 per cent had at least one member of their immediate family who had served a custodial sentence. Without understanding that such triggers happen early in people's lives, we will continue to be too late to rehabilitate individuals and that rehabilitation work will be much harder when we begin to undertake it. Therefore, the community justice authorities, which will ensure best practice and a statutory duty to co-operate, will build on the work of criminal justice social work groupings rather than undermine them, as the Conservatives seem to state.

**Margaret Mitchell (Central Scotland) (Con):**

The member speaks of a statutory duty to co-operate. Does that phrase not ring hollow with him? Surely co-operation depends on flexibility and that is precisely what we propose should be allowed to happen rather than structures being imposed by diktat.

**Jeremy Purvis:** Conservative members cannot argue that the system has to be structured to provide support for the communities that they claim to represent and then deny the fact that the organisations in question—which are paid for out of all our taxes and which work for our communities—should have a duty to work together. When it comes to co-ordinating justice, of course there should be a duty on the police, the hearings system, social work departments and all the other organisations to work together. Frankly, it is ridiculous to say that criminal justice must be more effective, but then not to provide the tools that will enable that aim to be achieved.

Mr Stevenson said that home detention curfews can be a tool to make the rehabilitation of individuals more effective. I support those comments, and I hope that at stage 2 we will build on the evidence that we received with regard to the conditions that can be applied to home detention curfews. For example, there is potential with regard to the alcohol and drug programmes that begin in prison when a sentence is long enough for that to happen but do not continue in

the community, or with regard to the individual attending interviews with housing officers and learning about financial management. Structures will be put in place to afford such work to be done and the conditions of home detention curfew can be shaped around the needs of the individual. We can use the structures that are outlined in the bill to provide active support to individuals in our communities. That will make a real difference and the Conservatives' approach simply will not.

**The Presiding Officer:** We move to the open debate. There is time for speeches of six minutes plus time for a couple of interventions.

09:55

**Bill Butler (Glasgow Anniesland) (Lab):** As the deputy convener of the Justice 2 Committee, I support the motion in the name of the Minister for Justice. I place on record the thanks of all committee members for the efforts of the clerking team in supporting us in our scrutiny of the bill.

Given the dissent that was registered by the committee's convener in respect of the committee's recommendation that Parliament agree to the general principles of the bill, I speak for the committee. The Management of Offenders etc (Scotland) Bill aims to reduce levels of reoffending and to improve the management of offenders by greater integration of the work of the criminal justice agencies. The Justice 2 Committee welcomes the bill, because it provides the basis for a more coherent, integrated approach to addressing offending in Scotland.

In 2004, the nationwide consultation on reducing reoffending, "Re:duce, Re:habilitate, Re:form", arrived at a broad consensus in recognising a number of serious deficiencies in the way that offenders are managed; those weaknesses contribute to unacceptably high rates of reoffending in Scotland. The consultation revealed a lack of shared objectives and strategic direction in tackling reoffending; a lack of communication between criminal justice service deliverers; inconsistency in the provision of offender services throughout Scotland; and a lack of accountability for reducing reoffending.

The bill's provisions are not a panacea—they will not in themselves reduce reoffending—but the Justice 2 Committee hopes that the bill, as part of a broader package of reforms, will ensure that local authorities and the Scottish Prison Service focus on consistency, quality and co-ordination. Given that, for example, in the two years from 1999 60 per cent of offenders who were released from prison were reconvicted of other offences, it is imperative that the Parliament acts.

"Supporting Safer, Stronger Communities", which was published in December 2004, was the

Government's response to the consultation. The majority of the Justice 2 Committee welcomes the creation of community justice authorities, which are new local government bodies that will ensure the co-ordinated delivery of community justice services by local authorities throughout authority areas. That proposal is sensible. My committee colleague Jackie Baillie will go into greater detail on the issues relating to the creation of CJAs that were explored by the committee and which are outlined on pages 5 to 11 of the committee's stage 1 report.

Section 1 of the bill concerns a matter that is closely associated with the establishment of CJAs; I refer to the creation of an obligation on Scottish ministers—presumably through the SPS—CJAs and local authorities to co-operate with each other in performing their functions with respect to the management of offenders. The Justice 2 Committee believes that good practice dictates that CJAs should encompass a wide membership. Paragraph 79 of our report notes our belief that there should be an emphasis on

"the importance of ensuring an effective interface between SPS and CJAs."

Mr Stevenson alluded to that important element. I hope that the minister will accede to the committee's request and ensure that the SPS clarifies in detail how that will be achieved in practice. That is essential. Such interaction between the SPS and CJAs is core to achieving improvement in the management of offenders.

I am sure that other members will refer to other important and welcome points in the bill, such as the provision to enable the Criminal Injuries Compensation Authority to recover from the perpetrators compensation that it has paid to the victims of crime—the minister mentioned that in her opening speech—and the improved information-sharing requirement in respect of the assessment and management of the risks that are posed by serious and sexual offenders, which has already been referred to but which I am sure will be referred to again.

**Stewart Stevenson:** The Conservatives mentioned the reservations that they incorporated in the stage 1 report. Another committee member, from the socialists, has also expressed concerns. Since that member is not here to raise those concerns, will Bill Butler comment on their validity and take this opportunity to rebut them or agree with them?

**Bill Butler:** I would not be so impolite. The member in question is not in the chamber. Stewart Stevenson will see from the stage 1 report that the member was concerned about the structure of CJAs, whereas Miss Goldie and the Conservative party are concerned about their structure and the

proposal for home detention curfews. As a democratic socialist, I would not presume to speak for a Trotskyist organisation.

Section 11 seeks to introduce a new discretionary power for the SPS to release certain prisoners on home detention curfew, which is a matter of some contention. Such prisoners would be released a short time before they were eligible for automatic release. The issues have been referred to in the debate. Most of the evidence that we heard suggested that there was merit in home detention curfew for certain low-risk prisoners.

I say to Miss Goldie that we are talking about low-risk prisoners, and she should not conflate them and other types of prisoners. The paramount concern for the Government and this Parliament remains the safety of our communities. That is non-negotiable. Therefore, as the minister said in her speech, only certain levels of low-risk prisoners will be eligible. Sex offenders who are subject to notification requirements, prisoners who are subject to extended sentences and, as the minister clarified in her evidence to the committee, prisoners with a history of domestic violence will be excluded and ineligible for home detention curfew. That should be crystal clear.

All releases on licence will be remotely monitored. Time on HDC will depend on the length of the sentence, but cannot be more than 135 days, as Mr Stevenson said. It is estimated that at any one time about 300 prisoners will be on HDC for an average period of 55 days. It should also be emphasised—perhaps this will comfort Miss Goldie and the Conservative party—that the police, in evidence, were generally supportive of HDC in the circumstances that are proposed by the bill. If the guardians of law and order are generally supportive, I hope that the Conservatives will find some way to change their opinion of HDCs.

The Justice 2 Committee believes that HDC is not a soft option and is not, as the minister stressed in evidence,

“a get-out-of-jail-free card or an alternative to a sentence.”—[*Official Report, Justice 2 Committee*, 10 May 2005; c 1624.]

The committee by majority is of the view that

“Provided there is robust assessment of the suitability of individual offenders for release on HDC ... HDCs are a welcome option”

as

“part of a package of wider measures.”

HDCs are not a cure-all, but the committee by majority believes that they will provide a measured, coherent option and better management of offenders in an attempt to reduce reoffending, which is what the bill is all about. That

is the serious business of the Parliament today. We should not succumb to the temptation of soundbites that conflate serious issues. That is to be deprecated.

The Justice 2 Committee believes by majority that the provisions of the bill are positive and that, in consequence, the general principles of the Management of Offenders etc (Scotland) Bill should be agreed to.

10:03

**Tricia Marwick (Mid Scotland and Fife) (SNP):**

The bill allows for the establishment of community justice authorities; seeks to place an obligation on ministers, local authorities and community justice authorities to co-operate; provides powers to intervene where there is a failure on behalf of the local authority; and at sections 9 and 10 seeks to establish joint arrangements for the assessment and management of sex offenders. To the outside observer, it seems to be a dry and technical bill that is mostly concerned with process, but it has the potential to put in place mechanisms that could prevent a repeat of the tragic circumstances that occurred in Tayport in January.

Last week, Colyn Evans was sentenced to life imprisonment for the murder of Karen Dewar, who was 16 years old. She was strangled, mutilated, and her body dumped in a rubbish skip and set on fire. Colyn Evans is now 18 years old. He came to the attention of social work, the police and the children's reporter when he was 10. Between the ages of 10 and 16 he committed 14 offences, six of which were sexual offences. Of the sexual offences, five related to shameless or indecent exposure. He was never placed on the sex offenders register.

Fife Council and Fife constabulary produced their own internal report on the day that Colyn Evans was sentenced. They examined their involvement with Colyn Evans and admitted that there were shortcomings in communications and written procedures, but concluded that the murder of Karen Dewar could not have been predicted. What could have been predicted, because there were two psychiatric reports to say so, was that Colyn Evans was at high risk of reoffending.

In October 2002, Colyn Evans was reported for an attack on a young boy, and in November 2002 he was reported for indecent exposure to a 31-year-old woman. In April 2002, he was placed in Geilsland residential school, where he was expected to take part in an intensive programme but did not co-operate. Before he was returned home, a report concluded that he was still at high risk of offending. That report was never submitted to the hearing in April 2004, when he was discharged from his supervision requirement. He

was given a flat in Tayport, round the corner from Karen Dewar. The police were never formally advised that Evans was in Tayport. Social work asked the police to carry out an assessment. That assessment was never done, but no one asked why. There were two further incidents in Tayport before Karen's murder, but despite police involvement they were not linked to Evans's previous offences.

Fife Council and Fife constabulary's internal report reveals a catalogue of failure—failure to communicate within authorities, failure to communicate between authorities and, most important, failure to protect a young woman and a community. I often say how lucky we are in Fife to have a local authority, a police force and a health board that all share the same boundaries. Margaret Mitchell says that what we need is flexibility. Flexibility does not work. That flexibility failed Karen Dewar. If communication and joint working cannot happen naturally in Fife, which has those huge advantages, it cannot happen anywhere in Scotland, unless there are statutory obligations on authorities to work jointly.

On Friday, I wrote to the Minister for Justice asking for a full, independent inquiry into the Colyn Evans case.

**Cathy Jamieson:** I am aware of the letter that Tricia Marwick and some other MSPs wrote to me. This morning, Tricia Marwick has again, very concisely, outlined many of the concerns that were raised in the report prepared by Fife Council and Fife constabulary. I spoke to Ms Marwick just before the debate to indicate that I have sent letters this morning to the conveners of the justice committees and the Education Committee, explaining that I have asked the Social Work Inspection Agency and Her Majesty's inspectorate of constabulary—which are independent of ministers but which, crucially, have an understanding of the systems—to scrutinise the Fife report, to work with Fife Council and Fife constabulary to expand that report, to look in more detail at some of the issues that have been raised and to come back to us with their findings. Ministers will then meet the chief constable and the chief executive of Fife Council to consider what further lessons may be learned.

I have asked my officials to examine in more detail the crossover between the youth and adult justice systems to see whether there are any lessons that can be learned, particularly in relation to young people who have committed sexual offences. I am concerned about consistency in the way in which such local inquiries are carried out. It was right and proper that Fife Council and Fife constabulary undertook that inquiry. There are more issues that need to be resolved, so I have asked my officials to consider drawing up

guidelines to ensure that such inquiries—if any should be required in the future—are undertaken in a consistent manner.

Thank you, Presiding Officer, for your indulgence in allowing me to put that on the record.

**Tricia Marwick:** I very much welcome the minister's short statement, and I thank her and the Minister for Education and Young People for agreeing that an independent inquiry should be set up. That will bring comfort to Karen Dewar's family, who felt dissatisfied with the conclusions of the report from Fife Council and Fife constabulary. There must be the fullest inquiry, and I hope that the inquiry will look at the whole history of Colyn Evans, including the period when he was at Geilsland residential school and his failure to cooperate. If the inquiry is conducted quickly but fully, the lessons that are learned from it could inform the bill at stage 2 and stage 3, and the bill will be better for that. For the sake of a community and a family, the lessons must be learned quickly, so that other communities and families will be protected.

10:09

**Jackie Baillie (Dumbarton) (Lab):** Like many other members, I welcome the Management of Offenders etc (Scotland) Bill. I believe that, by bringing a renewed focus to tackling offending and improving co-ordination, the bill will provide a sound basis for reducing the number of people who are convicted of a further offence.

It is worth reminding ourselves of the scale of the problem that we face. In Scotland, between 1995 and 2000, of those who were released from custodial sentences, up to 66 per cent—that is two thirds—were reconvicted within two years. It is because of that scale that I am, frankly, astonished that Annabel Goldie and Colin Fox are opposed to the bill. In answer to Mr Stevenson's oblique question, I suspect that Mr Fox is away starting a revolution, while Miss Goldie is undoubtedly trying to quell one in the Tory ranks—what strange bedfellows!

However, although structural change in the absence of policy substance is never the answer, I think—unlike Annabel Goldie and Colin Fox—that community justice authorities have a key contribution to make, largely because they are set in a much wider package of reform, with ministers clearly taking a strategic approach to tackling reoffending across the criminal justice system. Although it is acknowledged that the proposed structural reforms will not, in and of themselves, reduce reoffending, they will provide us with solid foundations on which to build.

I, for one, am persuaded by comments that were made by one of the committee's witnesses, who

said that, although existing criminal justice relationships may indeed work well,

“It is probably too important to be left to chance ... many of the good relationships that exist are based on good will and a willingness to work together professionally. If good will does not exist and there is no requirement to form a relationship and to agree on targets, objectives and areas to work in partnership, the chances are that it might not happen.”—[*Official Report, Justice 2 Committee*, 19 April 2005; c 1537-8.]

Let us not, as the Tories would do, take any chances. Community justice authorities will ensure that we do not simply rely on good will to promote some Tory notion of flexibility.

Perhaps Miss Goldie has forgotten last year’s national consultation on reducing reoffending. I shall remind her of it. A general consensus emerged about the key weaknesses in the existing system. At that time, we were told that there were no shared objectives, no strategic direction, little communication, lack of communication between criminal justice service providers and inconsistency in the quality and range of offenders services across Scotland. That is not to diminish the work that is undertaken by some criminal justice social work partnerships. I know that the partnership that covers my patch in Dunbartonshire is excellent, but the picture is not the same across Scotland. We need better consistency, better co-ordination and better quality in some areas.

If the Tories’ desire is to listen, I would welcome an acknowledgement that the status quo is not working.

**Margaret Mitchell:** If the partnership in Jackie Baillie’s neck of the woods is working well, is not there a case for using that example to find out what is happening and for using that information to replicate that work throughout Scotland—something that we fail to do in this Parliament—rather than saying that one size fits all, which is effectively what the bill does?

**Jackie Baillie:** If Margaret Mitchell had spent any time on the Justice 2 Committee listening to the evidence, she would not have made that comment. The Tories on the Justice 2 Committee have ended up doing what they all do so well. It reminds me of the behaviour of a small child. Basically, they know only one word, which they repeat several times, and that word is “no”. We have yet to find out what the Tories actually think. I would welcome further interventions if I thought that we would hear the Tories setting out their proposals, but I suspect that they will remain sedentary.

I want to focus on two issues that were raised with the committee, the first of which concerns the ministerial powers of direction and intervention. I confess to the chamber that there was genuine

confusion in the committee. We thought that we knew the difference between the power of direction and the power of intervention, and who the powers were aimed at, but we were confused. We were not alone; there is still uncertainty among stakeholders. I know that the minister intends that the power of direction will apply only, as set out in section 2(10), to community justice authorities, but sections 5 and 6 give ministers a power of direction to require action in the event of failure, either by a community justice authority or by a local authority.

It is fair to say that there is concern among local authorities about the scope and intention of those powers. Although I welcome the reassurance that the minister gave to the committee, I urge her further to clarify the matter. In particular, sections 5 and 6 refer to the exercise of power if there has been failure and it would be useful to know what circumstances would constitute failure. The minister indicated that any power of direction would be exercised following guidance. I assume that section 2(10)(b) will need to be amended to enable the Scottish ministers to provide wider guidance and I hope that such an amendment will be lodged at stage 2.

I ask the minister to consider two other matters before stage 3. First, will she consider ensuring that the power can be used only following an order that is subject to affirmative resolution by the Parliament? Such an approach would provide greater transparency and opportunity for scrutiny. Secondly, will she consider the possibility of including in the bill reasonable limits on the use of the power, in relation to the power’s scope and purpose and the time and nature of any intervention? I acknowledge that that would be difficult, but such a measure would reassure stakeholders of the minister’s intentions.

Finally, I echo Bill Butler and say a few words about the interface between the Scottish Prison Service and the community justice authorities.

**The Presiding Officer:** Please be brief.

**Jackie Baillie:** I accept that it is difficult for the Scottish Prison Service to work with 32 individual local authorities, but the service will need to make a considerable effort to engage meaningfully with CJAs. The SPS is a single national system, but CJAs will inevitably be much more local. The committee was astonished to hear that basic information was often not exchanged, despite positive work in link centres. We heard of examples in which the police and local authorities were unaware that prisoners had been released into the community, so it should come as no surprise to the minister that the committee believes that there is considerable scope for improving the collection and sharing of basic information.

I look forward to considering some of those points with the minister at stage 2. In the meantime, I urge the Parliament to support the general principles of the bill.

10:17

**Robin Harper (Lothians) (Green):** Green members welcome the bill—we very much agree with its general thrust and principles. We congratulate the Justice 2 Committee on its work so far and wish it well in the work that it will do on the bill in the future.

Members might expect me to mention the Airborne Initiative, but I will do no more than thank the minister for the detailed letter that she sent in response to my criticisms of the Executive. The matter rests there, although I still have reservations.

If we take the view that high-tariff offenders are the most in need and if we acknowledge that such offenders do the most damage to their communities, we must surely accept that in the long run it is worth investing the most money in that section of the prison population, to try to enable them to adapt to life in the community.

**Mr Stewart Maxwell (West of Scotland) (SNP):** I accept what the member says about long-term prisoners and the problems that they cause in society. However, the bill's purpose is surely to consider offenders who serve short sentences in prison for low-level offences, so that they are not allowed to progress to commit more serious offences, as some do as they proceed through what is in effect a criminal career.

**Robin Harper:** Indeed. I listened carefully and with considerable interest to the speeches of Jeremy Purvis and Tricia Marwick and I thoroughly concur with their observations on the necessity for early intervention. My experience on the children's panel taught me that early intervention is absolutely necessary. Twenty years ago, Lord Scarman said that there can be no criminal justice without social justice; the children's hearings system attempts to provide an element of social justice for young people. Despite the continued carping about the children's hearings system from the Conservative benches, the system's only problem is the fact that social work in Scotland remains underfunded. The situation would improve if we could put more funding into social work and associated institutions that help children, such as Barnardo's, which the Parliament considered yesterday in an extremely instructive debate. Early intervention is essential.

I am particularly impressed by the idea of community justice authorities. I draw the minister's attention to a speech that Baroness Vivien Stern gave to the Howard League for Penal Reform last

year—I am sorry, I should have declared an interest at the start of my speech: I am a member of the Howard League for Penal Reform. I will give the minister a copy of Baroness Stern's speech. The minister is indicating that she already has a copy—perhaps I sent it to her—but I will quote from it nevertheless, for the instruction of other members. Baroness Stern described a community justice centre in one of the poorer areas of New York:

"It is a good class building, a former school, in a very disadvantaged area, of redundant docks, public housing ... The Centre is run by the District Attorney, the local prosecutor. It contains a low level court (a problem-solving court). The judge is a judge, and a community development manager, and a local personality who gives away prizes at the local school fetes and community events.

Also in the building is an education centre, a childcare centre, the office of the drug treatment, mental health and other community organisations. Legal services for that disadvantaged community (eg housing rights, repairs) are provided there by lawyers. There are cells under the court like any proper courtroom. There is a mediation service. Quality of life classes run every hour as an alternative to a fine for a small anti-social act. There are community service organisers."

Baroness Stern continued by setting out some of the system's advantages. She states:

"First, this is a system that does not divide offenders and victims ... from the whole community in which they live ... Second, justice is not divided into criminal justice and legal justice"—

indeed, the system operates at all levels, very much as the children's hearings system does.

"Crime is dealt with under the same roof as access to justice services for those who need to get their roofs repaired ... Third, the outcomes are positive rather than negative. The judicial approach is based on the needs of the community and geared to an outcome. The judge tries to solve the problem. Drug treatment can start the day the defendant comes up in court."

The Management of Offenders etc (Scotland) Bill is an enabling bill that will allow community justice authorities to develop along such lines, by uniting social provision and justice provision under one roof. I wish the bill well in its progress through the Parliament.

10:23

**Bill Aitken (Glasgow) (Con):** The Parliament has debated reoffending on numerous occasions. It is clear that none of us regards the status quo as acceptable. However, there seems to be a basic misunderstanding of why the reoffending rate is so high. The reason is quite simple: people who have been in custody have committed either a serious crime or a large number of minor offences. It is therefore inevitable that such people are more likely to reoffend. That should be more clearly understood.



Of course we must do something, but, frankly, the bill is not the answer. The public interest must come first in all aspects of the criminal justice system, but time and again the actions of the Executive leave us with the impression that more consideration is given to clearing prisons than to the public interest.

The proposals in the bill have not been properly thought through. If members are not prepared to take my word for that, they should consider the reservations of the Convention of Scottish Local Authorities and the Association of Directors of Social Work.

**Robin Harper:** If Bill Aitken is so keen on responding to public opinion and considering the public interest, he will be interested to know that an NFO System 3 poll two years ago showed that most people agreed that prison has a negative effect on offenders. More than half of those polled agreed that most offenders come out worse than when they went in. The public think that prisons are not the best way of preventing reoffending.

**The Deputy Presiding Officer (Murray Tosh):** This is becoming a speech, Mr Harper.

**Bill Aitken:** I am sorry, but there was some distortion in the sound at the beginning of Mr Harper's intervention. I will perhaps follow up the matter with him later, privately.

We cannot get past the problems of early release and the message that it sends out to those who are likely to reoffend. That is our principal concern. Let me give an example—I am sure that the minister will agree that it is not an extreme example, but it falls within the criteria that she is proposing. An offender is arrested in somebody's house. He has that person's property ready to be taken away, but no violence is involved. He has a bad record. He is taken to the police station, fingerprinted, photographed, cautioned and charged, and then either is kept in custody or appears on a petition warrant at the sheriff court. After due process, he pleads guilty. The sheriff says that the appropriate sentence, given the offender's record, is 12 months in prison. However, the sheriff reduces the sentence to eight months because of the plea. The sentence then becomes four months because of automatic early release. The minister now proposes that that person would get out after only two months in custody.

The judicial guidelines are quite clear. There are clear arguments in favour of reducing sentences in respect of pleas, although it is arguable whether somebody who is caught red handed in the manner that I described should benefit in that way. The European convention on human rights makes early release automatic. The person does not have to behave himself in prison; release is

automatic. That is quite wrong. As Annabel Goldie said, there have been some high-profile cases—and I understand that many more are in the pipeline—in which people who have been released early have then committed some very serious crimes.

Until today, the minister had been somewhat vague about the categories of people to whom early release would apply. I accept that she has now been a lot more specific. She has stated that sex offenders and violent offenders will not be subject to early release.

**Cathy Jamieson:** I suspect that Mr Aitken has missed something if he thinks that that point has been made only today. The point has been made consistently and was part of evidence that was given to the Justice 2 Committee.

**Bill Aitken:** That is as may be, but ministers still have a real problem in this respect. Under article 26 of the United Nations International Covenant on Civil and Political Rights, the minister cannot apply criteria to sex offenders and, arguably, violent offenders that are different from the criteria applied to other offenders. If the minister is not prepared to take my word for it, she should take the word of Lord Macfadyen, who is obviously much more qualified in constitutional law than either me or, with respect, the minister. There is a real problem.

There are attractions in home detention orders, but we have to consider what has happened elsewhere. The criteria in England might not be quite as tight as those proposed by the minister but, in the 18 months following their introduction, 3,748 crimes were committed by people who were subject to the orders. Those crimes included 10 sexual offences and 569 crimes of violence. Does that show that the public interest has come first? If we consider our own local experience, we can see that the figures from the Lanarkshire youth court are a cause for concern. There are many more problems associated with the idea than the minister is prepared to admit to.

As I say, we do not regard the status quo as acceptable. However, any proposals to remedy the situation must make the public interest paramount. The bill does not do that.

10:29

**Donald Gorrie (Central Scotland) (LD):** As I am not on the Justice 2 Committee, I have not had the benefit of hearing all the evidence. I will therefore stick to general principles rather than the nitty-gritty on which we have had an interesting debate so far.

I want first to pursue the same line of thought that Jeremy Purvis pursued when he gave various figures about the background from which

offenders come. We have to address that issue. Interesting work is being done by people such as those in Strathclyde police's violence reduction unit.

For reasons that we all know about, more offenders come from certain communities than from others. Instead of having well-meaning people like me going along in a suit and telling people in those communities what they should do, we have to help them to do their own thing. A great deal of energy and enterprise often go into crime because there is nothing else worth doing locally. We should nourish and encourage enterprise, whether it is the enterprise of individuals who are trying to make a living in some way or whether it is the enterprise of people who are setting up a co-operative to provide a service that the local community needs. People need help, advice and a little bit of money just to get started. That can allow them to help their communities from the bottom up, if I may use that cliché. We have to set about helping communities in that way.

We also have to help families in which there are clearly going to be problems. We have to get in at the nursery stage, helping the children and the families. Very good work is being done in Denmark and other countries to help the kind of young people who history shows are likely to have problems and to cause problems later on. If children, families and the communities around them can be helped as early as possible, we will prevent a great deal of offending. Logically, the best way of preventing reoffending is by reducing the amount of offending in the first instance. We should make strong efforts in that regard.

Because of a provision inserted by the Parliament into the Antisocial Behaviour etc (Scotland) Bill, councils have to state in their strategies for dealing with antisocial behaviour what they are doing to provide good recreational, community and sports facilities in their area. I ask the ministers to ensure that that happens and that councils take the provision seriously. Providing good activities for people is one way of helping them not to get involved in bad activities.

In our endless debates on this subject, it has become a cliché to say that short sentences do no good whatever. I know that the minister cannot tell judges what to do, but can something be put in the bill to facilitate discussion between Government and the law industry on short sentences? If short sentences are proved—as I think they have been—to be counterproductive and a complete waste of time, it is surely common sense in a civilised society to do something about it.

It was extraordinarily depressing to read in the Justice 2 Committee's stage 1 report on the bill that there is

"no co-ordinated network of support on release."

The evidence from Dr Andrew McLellan covered very well the wide range of problems that we have to deal with—our Government is still not good at dealing with wide ranges of problems rather than narrow ones. Dr McLellan referred to

"the corrosive effects of addiction, the destructive experience that some people have of education, limited access to jobs and the gamut of issues that are related to poverty."—[*Official Report, Justice 2 Committee, 3 May 2005; c 1547.*]

As I say, if we can deal with such problems in families and communities, that will be of great benefit.

I ask the ministers to ensure that continuing funding is available for voluntary organisations that do good and relevant work in this sphere. In a previous debate, there was a slight disagreement—although not with Cathy Jamieson and Hugh Henry—about the phrase "core funding". If words are the only problem, we can get around that. There must be continuing funding so that people who do good activities can continue those activities without having to temper them to suit the latest whim of the powers that be in project funding. There must be continuing funding on which good organisations can rely, as long as people are satisfied that they are doing good work.

The bill contains many interesting proposals and I look forward to better debates in the future. Perhaps we will have a good stage 3 debate in due course.

10:35

**Karen Whitefield (Airdrie and Shotts) (Lab):** I welcome the fact that justice issues have been and continue to be a priority for the Scottish Executive, which reflects the level of concern in my constituency and others about the impact of crime and antisocial behaviour in our communities. We all want to make our communities safer and to reduce crime levels. As part of that effort, an important task is to reduce recidivism.

The Justice 2 Committee's stage 1 report is clear in pointing out that too many people leave our prisons only to reoffend within a short time. It also points out that reconviction rates for offenders who receive community-based sentences are slightly lower. The measures in the bill aim to address those two key points.

As a starting point, we must ensure that all the agencies that deal with offenders work in partnership and in synergy. I welcome the bill's proposal to set up community justice authorities. Although the committee's report says that there is much good practice among our local authorities and many examples of good partnership and interagency working, I agree with its conclusion

that there is a need to firm up such partnership arrangements and to put them on a statutory footing. I believe that the proper management of offenders is far too important to be left to informal partnership arrangements.

Safeguarding Communities-Reducing Offending, the Association of Chief Police Officers in Scotland and the Scottish Prison Service all agree that the establishment of community justice authorities, along with the introduction of a duty to co-operate, will help to create a more consistent and effective system for managing offenders. However, there are significant issues relating to community justice authorities that need to be addressed, such as the number of authorities that should be established and the role of the chief officer. It is possible that the chief officer could be placed in a difficult position. As an employee of a community justice authority, he or she will have responsibility for reporting any failings of his or her employer and/or of local authorities to Scottish ministers, which could be a delicate task.

I note the committee's recommendation that CJAs should "encompass a wide membership". I agree with that conclusion and suggest that broadening the CJAs' membership might help to provide security and support both for councillor members of CJAs and the chief officer.

I do not intend to say too much about the bill's measures to improve the management of serious sex offenders. The need for improved and effective inter-agency working is once again vital and I am pleased that the bill introduces a requirement for all the responsible authorities in a local authority area to establish joint arrangements to assess and manage the risks that such offenders pose. Over the years, there have been too many cases in which sexual abuse—especially of children—has continued because of a lack of information sharing between and, it must be said, within the various relevant agencies.

Like the Justice 2 Committee, I welcome the introduction of home detention curfews as part of a package of measures to facilitate the transition of offenders back into the community. However, like the committee, I recognise that HDCs cannot stand alone; other appropriate support measures will need to be put in place for offenders who are on HDCs. The other side of that coin is that such offenders must take responsibility for their actions and must be aware from the outset that conditions that are over and above the standard conditions for release are attached to HDCs. That point is vital if we are to gain public support for the measure. As Cathy Jamieson said to the committee, HDCs should not be seen as a get-out-of-jail-free card.

There has been broad support for the measures that the bill contains. It is regrettable that Annabel

Goldie felt obliged to show her opposition to many of the bill's central proposals by failing to agree to the committee's stage 1 report. To me, those proposals seem both rational and reasonable. The aim of improving partnership working between all the agencies that are involved in the management and rehabilitation of offenders is perfectly sensible—except to Annabel Goldie and the Tories. Perhaps that is why Bill Aitken wrongly criticised the youth court in Lanarkshire, which is widely acknowledged to be an excellent example of inter-agency working that has been bought into not only by the police, the procurator fiscal and social work services in North and South Lanarkshire, but—most important—by the community, which thinks that the court is making a significant difference.

The aim of using HDCs as a bridging mechanism for reintroducing offenders into the community towards the end of their sentence has been welcomed by almost everyone, except Miss Goldie and her colleagues in the Tory party. The Executive is taking a reasonable and balanced approach to tackling offending and modernising the criminal justice system in Scotland. Unfortunately, it seems that the Tories are more intent on using an important issue as a political football than they are on improving the situation; they are more interested in rhetoric than in facing up to their responsibilities as legislators.

I am pleased to be able to support the Management of Offenders etc (Scotland) Bill and I look forward with interest to the outcome of the detailed scrutiny of the bill that will take place at stage 2.

**The Deputy Presiding Officer:** I express my regrets to Paul Martin, but we must now move to the winding-up speeches.

10:41

**Mike Pringle (Edinburgh South) (LD):** Last December, we had a good parliamentary debate on reducing reoffending. As usual, it was the Tories who said that simply scrapping the early-release scheme would solve the problem of reoffending. Annabel Goldie has reiterated that view today. The Tories' position is wrong—the bill will address the problem.

In December's debate, I admitted:

"The current figure of 55 per cent for those sentenced to between three and six months in prison is too high. The figure of 60 per cent for those who reoffend within two years is also too high."—[*Official Report*, 16 December 2004; c 13018.]

Jackie Baillie cited a figure of 66 per cent, but whether the reoffending rate is 60 per cent or 66 per cent, it is too high and we must tackle the problem. I think that the bill will do just that. The

Executive has the policies to do something about the situation and the bill is part of the solution. It is a shame that, since last December, the Tories have offered no practical alternatives and it is disappointing that Annabel Goldie dissented from the Justice 2 Committee's stage 1 report simply because it did not advocate the scrapping of early release.

Whether someone has been in prison for three months or three years when they get out is irrelevant to reoffending; what they need is effective rehabilitation and monitoring on release. The bill represents a significant step forward in the management of offenders and seeks to focus all parts of the criminal justice system on reducing reoffending.

Stewart Stevenson said that the aim of the bill was to reduce reoffending by 2 per cent. The committee's report states:

"The Committee notes that the Executive believes that the Bill could reduce reoffending by 3% and considers this goal to be reasonable."

**Mr Maxwell:** The member may not be aware that the Minister for Justice has written to the Justice 2 Committee to clarify that there was a small error in that statement and that 2 per cent is the correct figure. In other words, the report contains a mistake.

**Mike Pringle:** I accept that; I did not know that that was the case because I had not seen the minister's letter.

**Cathy Jamieson:** I can provide further clarification. It is important that we do not get caught up in the notion that the bill is the only thing that will matter when it comes to the target for reducing reoffending. As I said earlier in the debate, the target that has been set is preliminary and I would like the national advisory board to reconsider it in the future.

**Mike Pringle:** As the minister has said, the bill is a step forward, but we need better joint working.

The Liberal Democrats support the aims of the bill, but if we are to make a significant impact on reoffending, we must use social and economic policies to bring to bear on the lives of offenders a wider range of services, such as those that are provided by housing, health, education, employment and financial service agencies.

In closing the debate for the Liberal Democrats, I will focus on some aspects of the bill that I wholeheartedly support and which will, with hard work, reduce the high levels of reoffending in Scotland to which I have referred. As Donald Gorrie said, short sentences just do not work. Some 80 per cent of the women in Cornton Vale prison are on very short sentences. I believe that the home detention curfew scheme will offer them and many others

the chance to get out early, which must be positive.

We have to admit that there are people in our prisons who should not be there. Eighty-two per cent of prison sentences are for less than six months and there is no statutory aftercare or supervision for those sentenced to less than four years. Prison is not working. Twenty per cent of people who are in prison are there for fine defaulting—that is ludicrous. Prison is a place of punishment and reformation for those who have committed the most serious of crimes.

I hope that the HDC scheme will relieve the pressure on our prisons, although I note that, to be released on the scheme, prisoners must already have served a short prison sentence. As the minister said, they must earn the right to get an HDC. Bill Butler and my colleague Jeremy Purvis outlined which prisoners will be eligible and how they will be eligible. That is clear and it must be welcomed. I would like those currently given ineffective short prison sentences to receive strong restorative sentences in conjunction with the curfews. The scheme has been shown to be a strong link between the support agencies and the Prison Service.

The bill provides for the establishment of community justice authorities, through which, as has been mentioned, councils will work together on a statutory basis to improve the consistency and quality of the service throughout local authorities. The sharing of information and implementation of best practice are also needed. Obviously, there are concerns about the CJAs but, as long as island authorities are respected in any structure, councils will have nothing to fear. As smaller authorities work together, that can only improve practice. Moreover, I suggest that there may not be a huge change in the large urban areas. Ministers will be able to ensure compliance, but I would like an assurance from the minister that that power will not be used lightly—it should be used only after serious problems have been identified and all other avenues have been exhausted.

Finally, I highlight the measures enabling the Criminal Injuries Compensation Authority to recover assets from criminals. Nothing deters people more from an activity than if the consequences will hit them in their pocket. That is one of the most effective punishments. If someone profits from criminal activities, they should pay the money back. That measure has been successful in England and in Northern Ireland and I look forward to seeing the recovery of millions of pounds from criminals in Scotland.

The bill offers a real chance to create a culture in our local authorities and our criminal justice system of tackling reoffending. In any system, the

primary concern is for justice for the victim. That will remain the case, but true justice can be achieved by ensuring that a strong restorative sentence is put in place and that the offender is managed so that he or she does not reoffend. As Robin Harper said, the issue is all about early intervention. I support the bill and encourage members to support the motion, thereby rejecting the failed policies of the Tories and sending a strong signal of our commitment to reduce reoffending.

10:47

**Margaret Mitchell (Central Scotland) (Con):** There has been consensus in the chamber this morning in so far as everyone wants improvements in the rate of reoffending in Scotland. However, the main proposals in the bill are not the way to achieve that objective. Changing the structure will not solve the problem. That is not just the view of the Conservatives but—crucially—the view that is shared by COSLA and others in the front line of the management of offenders, who stress—

**Jeremy Purvis:** Will the member give way?

**Margaret Mitchell:** I am precisely 37 minutes into my speech.

**Members:** Seconds.

**Margaret Mitchell:** Thirty-seven seconds. If the member does not mind, I will make a little progress.

That view is shared by most people in the front line of service delivery, who stress that the emphasis should be on activity that works, rather than on putting in place a structure that is aimed at delivering that activity.

Like my colleague Annabel Goldie—

**Jeremy Purvis** *rose*—

**Margaret Mitchell:** If the member does not mind, I will press on.

Like my colleague Annabel Goldie, I find it difficult to understand why the Executive is so reluctant to allow the existing criminal justice social work units to bed down. Then there could be a proper assessment of how they are working and any future plan would be devised from informed comment, which is a crucial point. Instead, the Labour-Liberal Democrat coalition is railroading its way through genuine and reasonable concerns, while proclaiming that its now well-documented addiction to consultation is born out of a desire to listen.

**Jeremy Purvis:** The member will have read the evidence that the committee received from Councillor Eric Jackson from COSLA. He said:

“We are saying that the bill is a positive piece of legislation, which we broadly welcome, but it is only part of the answer.”—[*Official Report, Justice 2 Committee*, 12 April 2005; c 1494.]

That is exactly what the minister said, and what the Executive coalition is stating.

**Margaret Mitchell:** Equally, the general thrust from the Association of Directors of Social Work was that the existing system is working well and should be given time to bed down. As always in the Parliament, there is a rush to legislate where legislation simply is not needed. This is another example of that, and people in Scotland and in my party are absolutely fed up with it. Now is the time to say that enough is enough.

In short, people in Scotland are being offered the worst of all possible worlds: on the one hand, a Government that claims to listen through consultation and then does nothing; and on the other hand, a Government that acts in a high-handed manner—as with the present bill—without bothering to listen.

**Cathy Jamieson:** On that point—

**Margaret Mitchell:** I am sorry, I really have to move on.

Section 9 of the bill states that information is to be shared among all the responsible authorities. That is not only sensible but is being achieved at present without creating the new community justice authorities, whose responsibilities will potentially conflict with those of existing organisations, and which—more important—will incur costs that would be better spent supporting real action to deliver front-line services.

Jackie Baillie and others have asked what the Conservatives would do. We would allocate sufficient resources to ensure continuity of rehabilitation programmes such as literacy and numeracy programmes, drug and alcohol programmes and debt management programmes, which start in prison and which must continue in the community to ensure the greatest chance of a successful outcome.

**Jackie Baillie:** Will the member take an intervention?

**Margaret Mitchell:** I am sorry; I must press on.

Confidence in the criminal justice system is being constantly eroded by the failure of a sentence to mean what it says. I am baffled that Stewart Stevenson and the Scottish National Party do not appear to have any reservations about the introduction of home detention curfews, which will merely serve to aggravate the problem with automatic early release by releasing prisoners even earlier.

**Bill Butler** *rose*—

**Margaret Mitchell:** The concerns about home detention curfews do not stop there. To address the point that Bill Butler made earlier, when HDCs were introduced in England, the then Home Secretary, Jack Straw, made it clear that he had no plans to provide for electronic tagging to facilitate the early release of serious or sexual offenders. However, as we know, under the home detention curfew scheme in England, people convicted of manslaughter, actual and grievous bodily harm, assaulting a police officer, drug dealing, cruelty to children, sex offences, burglary, robbery and theft have all been released.

While being vague about the specific categories of prisoner who would be eligible for the scheme, the minister has said that sex offenders and violent offenders will not be included. She must now give a cast-iron guarantee that that will be the case. It is legitimate to ask for such a guarantee given the experience in England.

In conclusion, I very much regret that our discussion of this important subject fails to concentrate on the delivery of front-line services, which is an essential aspect of the rehabilitation process.

10:53

**Mr Stewart Maxwell (West of Scotland) (SNP):** I begin by referring to Tricia Marwick's speech, which I thought was absolutely excellent. It brought together clearly and concisely the reasons why it is important that we put these structures in place. It is vital, in cases such as the one that she detailed, that we ensure that we have co-operation among all the bodies that members have mentioned. I would have expected the Tories, having listened to Tricia Marwick's speech, to begin to wonder whether they have made a mistake and to change their minds about their opposition to the bill. Clearly, structures play an important part.

**Miss Goldie:** Will the member give way?

**Mr Maxwell:** No, not just now.

I am sure that the minister agrees that the bill in itself will not make any difference to reoffending rates; but it will put in place the structures that will allow organisations such as the SPS, local authorities and others to co-operate closely in an organised and structured fashion. That is extremely important. As Jackie Baillie said, the current situation is partly reliant on the good will of those in charge of the various bodies throughout the country. That is fine where we have willing, able and motivated individuals who go the extra mile to work together and to integrate services. However, where that is not the case, we are letting down individuals and the communities that they come from. That must change.

The creation of CJAs will mean that there are bodies that are directly responsible for ensuring that various groups work together, that a high standard of service is maintained and that all groups work together to cut reoffending. It is entirely logical that bodies that deal with offenders, such as the SPS, social work, housing, health, education, employment, family services and other support providers, should all be involved in working together to address offending behaviour. However, it seemed to me and to other committee members that the sharing of information among the various bodies was somewhat haphazard. Therefore, it is crucial that, as soon as the CJAs are set up, all participating bodies ensure that information is shared speedily and accurately across the board. Only then will CJAs have the ability to work effectively.

On balance, I support CJAs, but I have certain caveats. Margaret Mitchell's statement that the SNP unreservedly supports the proposals is not true; we have some issues with HDCs. For example, Stewart Stevenson said earlier that Jonathan Aitken was released on an HDC. That led me to change my mind on the matter; I cannot possibly support such a terrible measure. Seriously, though, unlike the Tories, I can see some merit in HDCs, but only if additional support services are either included as mandatory conditions or available as voluntary options.

There are three standard conditions of the curfew agreement that must be met: the curfew condition itself; the requirement to be of good behaviour; and the requirement not to commit an offence. There is no disagreement about the need for there to be standard conditions that apply to everyone who is released on an HDC. However, the committee felt that, if we really wanted to cut reoffending, there ought to be a package of additional support measures that address an offender's behaviour and which, like the standard conditions, are mandatory. Jeremy Purvis and Karen Whitefield both mentioned that point.

The committee heard that view expressed in evidence when, for example, Sue Brookes from Cornton Vale said that HDCs would be particularly useful for female offenders, to assist stability and allow better access to services in the community, particularly if conditions requiring access to particular services are attached. Those additional conditions would be tailored to suit the individual, as some people would clearly be helped by an additional drug rehabilitation course or a course to help them to deal with their alcohol problems, while others might require help with literacy or perhaps even employment training.

In some cases, it might be felt that there is no need for additional conditions. If that is the case, that is fine. However, each case must be dealt

with on its own merits. By making the supplementary conditions mandatory in those cases where that is appropriate, HDCs would be much more effective. There is evidence to support that.

Professor McManus of the Parole Board for Scotland said that the most successful schemes that he had seen were in the United States of America. He said that those schemes

“all started off by pretending that they could work by keeping the person in a house, but every single one of them had to give in and use some form of supervision to assist the person in addressing the issues that come up in the domestic situation and those that gave rise to offending in the first place.”—[*Official Report, Justice 2 Committee*, 3 May 2005; c 1551.]

When the minister gave evidence to the committee, she did not seem convinced about the need for additional mandatory conditions and said that it was up to individuals to take responsibility. I agree that people should take responsibility, but one of the problems with the group of people about whom we are talking is that they are the very people who do not take responsibility for their actions. That is why I believe that it is important that we include additional mandatory conditions where appropriate. Over and above the standard conditions and the use of additional mandatory conditions, support services should be available for those who are being released that they can choose to take up voluntarily.

It is rather unfortunate that the Conservatives have had a knee-jerk response to the idea of HDCs. If risk assessments are carried out, only low-risk prisoners are allowed on to the scheme and we ensure that, where it is deemed appropriate, additional mandatory conditions are added to the HDC to address an individual's offending behaviour, HDCs could be the best option for some prisoners. Further, if they help to cut reoffending, they will also be the best option for society and communities.

It is imperative that there is no public perception that HDCs are a get-out-of-jail-free card, which is how some Tory members have described them, and it is incumbent on the Executive to ensure that the use of HDCs is not seen as a soft option. Certainly, they must not be used as a quick way of cutting prisoner numbers.

What has been said about the Criminal Injuries Compensation Authority is most welcome, although I have some concerns. Mike Pringle said that he would look forward to the millions of pounds that would come back to the public purse. I would welcome that if it happens but, frankly, some of the people about whom we are talking will not pay or cannot pay and the system might not be as successful as we hope that it might be. However, it is absolutely right that we establish the

principle that the people who are responsible for offences should pay compensation if they are able to.

I welcome the fact that the Executive intends to tighten up on sex offenders. That is an important part of the bill and I was glad to hear what the minister said on the subject in her opening remarks.

Before I conclude, I apologise on behalf of Stewart Stevenson, who missed some of the closing speeches as he was called away at short notice on urgent business.

I support the general principles of the bill and feel that, although punishment must always play a part in sentencing, society benefits much more by ensuring that those who commit crime are given the opportunity to see that there is another way. Only by giving them that opportunity can we hope to address the alarming recidivism rate among offenders in Scotland. We must also remember that HDCs are not a get-out-of-jail-free card and remain a part of the sentence. The sentence is not concluded when the offender is released on an HDC; they can be recalled immediately to prison if it is felt that that should happen.

11:01

**The Deputy Minister for Justice (Hugh Henry):** This has been a useful debate. It is interesting to note that, in the course of the Justice 2 Committee's deliberations, a consensus has developed that we cannot afford to tolerate the status quo, despite the things that the Conservatives have said. Member after member—many of them committee members—has outlined the desperate problems that Scotland has with reoffending. The rate of reoffending is unacceptable and I think that it would be a dereliction of our duty if we failed to take action.

The committee has done a thorough job in attempting to advance a considered opinion on the wide range of issues that are associated with the bill. I thank all the individuals who participated in the process, including all those associated with the committee, for their work.

This morning, we have heard some eloquent, considered, passionate and thoughtful speeches, which enhance the Parliament's ability to do its job. That is why I say, with all sincerity, that I am profoundly disappointed that the Conservatives continue not to be influenced by the quality of the speeches from around the chamber on a range of justice-related matters. I know that there are some thoughtful, intelligent and compassionate people in the Conservative party—

**Stewart Stevenson:** Name them.

**Hugh Henry:** Individually, when one talks to them, they reflect intelligent thoughts, but when

they come to the chamber collectively, they somehow fail to rise to the occasion. They consistently diminish themselves as individuals, and they diminish their party and, I would argue, the Parliament by not rising to the challenge in the way that other members do. The type of speech that they make contributes little to the process of having a constructive debate.

**Miss Goldie:** I know that the minister does not intend to be patronising, as that is not his nature, but surely he accepts that, if the Parliament exists for any purpose, it is for the articulation of views that might be different from those of the Executive and for the advancement of arguments that might be opposed by the Executive and other parties. Surely the proposition that, in this Parliament, it is flawed for a party to articulate a differing view, on the basis of representations that have been made to it by the public, and, in doing so, to create the very debate without which that view would not be heard, is nonsensical. Is the minister seriously condemning that as an unacceptable mode of parliamentary behaviour?

**Hugh Henry:** Would that that were what is happening, but it is not. If only the Tories were able to advance some intelligent arguments against what we are proposing and to marshal some evidence and statistics that would prove their case. In many justice debates, I have heard speeches in which members have opposed what Cathy Jamieson and I have been saying but have done so in a measured and thoughtful way. Being opposed to our proposals does not mean that members have to come in and parrot two slogans in a thoughtless manner.

**Bill Aitken:** Will the member take an intervention?

**Hugh Henry:** No, thank you.

The Tories are unable to back up and justify their arguments. They diminish themselves and they diminish the Parliament.

**Tricia Marwick:** Does the minister agree that it is a bit strange that although Ted Brocklebank—a member for Mid Scotland and Fife—is as concerned as I am about the Karen Dewar case, the Conservatives cannot understand the need for a statutory obligation for the police and local authorities to work together? If Ted Brocklebank was here, I am sure that he would recognise that if there was such working together we might not be in the situation that we are in.

**Miss Goldie:** On a point of order, Presiding Officer. I must question whether it is acceptable conduct for a member to include a specific reference to a member who is not present in the chamber and so cannot rise and explain his position if required.

**The Deputy Presiding Officer (Trish Godman):** I am not sure that Tricia Marwick asked Ted Brocklebank to rise and explain his position, but I take your point. I advise Tricia Marwick to watch out next time she is speaking.

**Hugh Henry:** I do not want to go into the point in respect of the individual, but the point that Tricia Marwick touched on is critical. Margaret Mitchell asked why we should not simply allow the co-operation and flexibility that exist at present to continue. Tricia Marwick—in a measured, concise and moving speech—explained clearly why the status quo is not an option. Even if no other argument was put forward for why our proposals are right, her comments about the need for us to ensure action would suffice. We cannot allow the argument of those who say, “Give us more time and more money,” or, “There need to be co-operation and flexibility.”

**Margaret Mitchell:** Will the minister give way?

**Hugh Henry:** No, thank you.

We would be failing the public if we did not take steps to ensure that action is taken. The tragic case in Fife and the cases that have taken place in recent years in Edinburgh, Lanarkshire and Glasgow are evidence of the need for us to take action.

**Paul Martin (Glasgow Springburn) (Lab):** Will the minister give way?

**Hugh Henry:** Yes, certainly.

**The Deputy Presiding Officer:** Please be brief, Mr Martin.

**Paul Martin:** I have asked the minister before about a number of reviews of housing allocation in respect of registered sex offenders. I ask him, once and for all, whether we will reach a stage at which a policy is in place for all authorities in Scotland in respect of that allocation.

**Hugh Henry:** A number of practical steps have been put in place. In September, there will be an update of the 1999 practice note on housing sex offenders. We are progressing joint training on enhanced risk assessment of sex offenders; we are providing accredited programmes both in prison and in the community; and we are preparing guidance to embed protocols for sharing information in local practice. I hope that Paul Martin will find some reassurance in the fact that those things are being done.

We believe that the argument for action has been made. Therefore, I must agree to disagree with many friends and colleagues with whom I have worked over the years, and Cathy Jamieson is in the same position. We are not prepared to say, “Leave us alone and things will turn out all



right in the end.” The evidence is not there to justify that.

We will come back on a number of specific points at stage 2. Bill Butler asked for clarity on the interface between the SPS and the proposed community justice authorities. There is on-going work on that and we will provide guidance, but we will return to the matter. Jackie Baillie asked for clarification of section 2(10). This is not the time to give specific commitments, but I say to Jackie Baillie that although we will have further discussions with COSLA on the powers of direction, we will do nothing that will constrain our ability to act effectively if that is required. Some of the points about social work funding were misplaced. More money is going in than ever before. I do not have enough time to go into the other detailed arguments that were made.

The case for action and change has been made. If we take the opportunity that is afforded us, we can make changes and improvements for a difficult section of the population; Stewart Stevenson outlined some of the difficulties very well. The Executive is committed to taking action and I hope that the Parliament will support us in that process.

## **Management of Offenders etc (Scotland) Bill: Financial Resolution**

11:10

**The Deputy Presiding Officer (Trish Godman):** The next item of business is consideration of a financial resolution. I ask Hugh Henry to move motion S2M-2933, on the financial resolution in respect of the Management of Offenders etc (Scotland) Bill.

*Motion moved,*

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Management of Offenders etc. (Scotland) Bill, agrees—

- (a) to the following expenditure out of the Scottish Consolidated Fund—
  - (i) expenditure of the Scottish Administration in consequence of the Act; and
  - (ii) increases attributable to the Act in the sums payable out of that Fund under any other enactment; and
- (b) to any payment required to be made by virtue of the Act.—[*Hugh Henry.*]

**The Deputy Presiding Officer:** The question on the motion will be put at decision time.

## Identification Cards

**The Deputy Presiding Officer (Trish Godman):** The next item of business is a statement by Tom McCabe on identification cards. The minister will take questions at the end of his statement, so there should be no interventions.

11:11

**The Minister for Finance and Public Service Reform (Mr Tom McCabe):** I welcome the opportunity to update the Parliament on the identity card scheme that is being proposed at Westminster. It is not long since the Identity Cards Bill was re-introduced at Westminster, so it is helpful to state our position on the bill and set out how the proposals will affect Scotland.

First, I make it clear once again that the proposals for an identity card scheme are confined to reserved policy areas. It is neither for me nor for any Scottish minister to seek to persuade the Parliament of the merits of the United Kingdom Government's proposals—that is a job for the Westminster Parliament and its representatives. Our role, if Westminster seeks to legislate in ways that might raise questions on areas of policy that are devolved to this Parliament, is to ensure that the devolution settlement is respected and maintained. That is the job that we have been doing on the identity card scheme. We have followed the development of proposals; investigated their implications; maintained a dialogue with Westminster and Whitehall; and, where necessary, worked to influence the shaping of the policy so that Scotland's freedom to make its own policy decisions in devolved areas is protected and sustained.

The Identity Cards Bill does not encroach on devolved matters and therefore it does not need a Sewel motion in this Parliament. I repeat our previously stated position that we are satisfied that the provisions of the bill and the powers that it would create are for reserved purposes only.

Our position on the use of identity cards in Scotland has been clear all along: we do not wish to link them to the provision of devolved services. The bill devotes an entire clause to provisions that state clearly that if we changed our minds on that critical point and wanted to allow the use of identity cards for devolved purposes in Scotland we could do so only by legislating in a specific act of the Scottish Parliament. We believe that there can be no more solid assurance about our approach to the scheme with regard to Scotland.

If and when the bill is enacted, Scots who apply for designated services that are the responsibility of the UK Government, such as passports or Department for Work and Pensions benefits, will

face the same requirements as other UK residents.

I also take the opportunity to allay concerns about the proposed national identity register. An individual's information will not be recorded on the register before it has been checked by the enrolment service and there are strict limits on the information that can be held. I hope that we can put behind us the unhelpful confusion that has been generated around identity cards. They are Westminster's responsibility and the bill will not affect how Scots decide about devolved matters.

By contrast, and to avoid any confusion, I take a few moments to draw to the Parliament's attention the work that we are doing to make a positive difference to the people of Scotland by making public services more efficient. We will harness technology to introduce voluntary smart cards, which will enable citizens to enjoy easier, better access to the public services that they want to use. Sometimes, our work in that area is wrongly confused with the issues around identity cards. In fact, the smart cards that we are developing are different in almost every way from the proposed identity card scheme. As we promised in the partnership agreement, we have evaluated the local pilot projects that assessed the desirability of the creation of a national citizen's entitlement card for appropriate public services, taking great care to protect individual privacy.

The cards are intended to improve citizens' access to public services and to allow people to use services in convenient, joined-up ways. The evaluation report shows that 280,000 young people have Young Scot cards, 60,000 of which are smart cards that provide access to education, transport, library, leisure, recreation and retail services; that 50,000 other citizens have a card that provides access to transport, library and leisure services; that a nationally accredited voluntary proof-of-age scheme has been introduced; that pilot testing is complete for cashless catering and library services; and that pilot testing continues for concessionary and integrated transport applications.

In addition, early case studies show an increased uptake of free school meals. In the first pilot school in Dumfries and Galloway, the increase was 20 per cent in the first month, and takings for school meals showed a general increase of £100 per day. Feedback from Dundee identified savings of £20,000 per annum from reduced paperwork in processing concessionary taxi fares and a potential saving of £100,000 by reducing the risk of fraud in the concessionary fares scheme.

Savings are also achievable by local authorities packaging together multiple entitlements to services on a single card, rather than issuing

separate cards for individual services. Of course, the citizen benefits from having to use only a single card. We are beginning to turn that idea into reality.

Our next major step is the introduction of the national concessionary fares scheme in 2006. We are working with councils to develop the technology, including smart cards, to support the scheme, for which 1.2 million older people will be eligible.

I stress that the Scottish smart card will not be an identity card. It will be entirely voluntary and will not include biometric data. It has support from all 32 Scottish local authorities and it will allow citizens to use fewer cards than at present. One card could cover a range of services, such as libraries, leisure and transport. Most important, it will deliver better, more joined-up and more efficient public services. Just as important is that any expansion of the card's use to a wider range of devolved services will require the individual citizen's informed consent.

Early indications are promising, but there is much more that we can do. I hope that the Parliament will agree that we should focus on making practical improvements to public services. In doing so, we will take care to be sensitive about civil liberty considerations and to ensure that any extension to the range of services that is available through using the entitlement card will require the individual citizen's informed consent.

**The Deputy Presiding Officer:** The minister will take questions on the issues that his statement raised. I will allow 20 minutes or so for questions, after which we will move to the next item of business. I remind members who wish to ask a question that it is indeed a question that they are to ask, not a speech and a question or five questions in one; it is one question.

**Mr John Swinney (North Tayside) (SNP):** I will follow that maxim. The minister said:

"The Identity Cards Bill does not encroach on devolved matters".

I understand that some devolved organisations will have access to the national identity register. If devolved institutions such as the police or other organisations that are accountable to the Scottish Executive and to the Parliament can access the national identity register, how can the minister's statement that the bill does not encroach on devolved matters be correct?

**Mr McCabe:** I am not aware of how Mr Swinney arrived at that understanding. I have given an assurance about how the system will be used for devolved services. We have never been anything other than clear about the access that the police would have to the identity register. We have said

many times that we have no intention whatever of hampering the legitimate work of the police on the detection or prevention of crime or on national security issues. I said that their job is hard enough. We have no intention whatever of hampering them in their important work.

I do not know to which other services Mr Swinney refers, but if he gives me more detail, I will be happy to try to deal with that in correspondence.

**John Swinburne (Central Scotland) (SSCUP):** On behalf of Scotland's senior citizens, has the minister sought clarification from the UK Government about the cost implications for them of obtaining an ID card to access their pensions? Does he agree that that must be free of charge?

**Mr McCabe:** Such matters are clearly for the United Kingdom Government. As I said in my statement, we have engaged in a series of conversations with it to protect the devolution settlement and to explain our view in Scotland on such matters. I would understand any concern that senior citizens might express if they had to pay a fee to access their pensions. I would be more than happy to make such representations on the member's behalf when we next speak to the United Kingdom Government.

**Patrick Harvie (Glasgow) (Green):** I thank the minister for the advance copy of his statement, almost a whole half of which was about ID cards. Will he go a little further on the issue that John Swinney touched on? Given that the minister has been clear about the piece of plastic—people will not use an ID card to access devolved services—and given that the motion that my party lodged and to which the Parliament agreed was about the use of the register by devolved institutions, will he give a clear and simple assurance that in no way and in no circumstances will access to devolved services be restricted, limited or affected by information that is held on the register and is disclosed to devolved institutions?

**Mr McCabe:** I am glad that Mr Harvie received the statement, although I am not convinced that he read it or that he listened to what I said, because I just gave exactly that assurance to the Parliament. I also gave such assurances at a private meeting with Mr Harvie a few months ago. At that time, he accepted that assurances were given, but he felt the need for us to make a statement to Parliament and we were happy to comply.

It is not the Scottish Executive's job to write in big letters on a postcard what we are saying. We have made a statement to the Parliament; I think that it was clear and that most members will understand what we have said.

**Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD):** Will the minister outline what

the relationship will be between the national identity scheme commissioner and devolved bodies that the UK legislation may require to provide information and associated documents—about the residency of Scottish residents, for example—to ensure transparency in that relationship?

**Mr McCabe:** I can certainly give the assurance that we want to maintain such transparency. From our point of view, we will engage in discussions to ensure that that is the case as far as we can. I have seen no indication that we will encounter difficulties.

**Frances Curran (West of Scotland) (SSP):** I am interested in the point that privacy will be regarded at all costs. The minister talked about the introduction of smart cards. Is he willing to list for those who may sign up for smart cards all the organisations and departments that will have access to the computerised information? For example, my five-year-old came home with a smart card from primary 1, which has all his information on it. The voluntary element is not great. If I do not want him to have a smart card to access services, what is the alternative? I would like to know where the information is, how it got there and how it ended up on his smart card.

**Mr McCabe:** The alternative is simple: if any citizen, irrespective of their age, does not want to use a smart card, they will access services conventionally.

**Miss Annabel Goldie (West of Scotland) (Con):** The minister has said expressly that the Executive does not wish to link ID cards to the provision of devolved services. Will the much more restricted use of ID cards in Scotland mean that the cards will cost less in Scotland?

**Mr McCabe:** People in Scotland are citizens of the United Kingdom. They may require a form of identity card in connection with a passport, for instance. An identity card and a passport may be the same document in the future. As citizens of the United Kingdom, people in Scotland should share the same burden as people in other parts of the United Kingdom.

**Christine Grahame (South of Scotland) (SNP):** Will the voluntary smart card be separate from or amalgamated with the national concessionary fares scheme card? In either event, will we still have the concessionary fares scheme in 2006?

**Mr McCabe:** I will deal with the second question first. Our firm intention is to have a national concessionary fares scheme in 2006—that is a fundamental plank of the partnership agreement programme. There are parties in the Parliament that are rather jealous of that intention, but what happens depends on how people present

themselves to the electorate, and some of us have more success than others in that respect.

On how the smart card will be used, citizens have always required some form of photographic identification to access concessionary travel. An important aspect that a parliamentary committee has rightly highlighted is the concern about the potential for operators to use fraudulent practices to increase their income through concessionary travel. We want to ensure that access to the benefit is as wide as possible for the citizens of Scotland, but we also—rightly—want to ensure that public funds are used vigilantly. Smart card technology will be important in ensuring that we pay the appropriate amount for the delivery of services. Lest anyone should introduce additional confusion to the debate, I stress again that people who want to access free concessionary travel have always been required to prove that they are entitled to that benefit. Individuals would understand that requirement.

**Donald Gorrie (Central Scotland) (LD):** Will the minister clarify the relationship between what he has described and proof-of-age cards, about which there have been various proposals? Following the Parliament's consideration of licensing and smoking laws, there have been various proposals for voluntary or compulsory proof-of-age cards. How would those fit in? If the Parliament goes ahead with compulsory or voluntary proof-of-age cards, will they be covered by the smart card or will they be a separate issue?

**Mr McCabe:** As I said in my statement, we see great benefits in citizens being able to access as many services as possible with one card, and we see considerable benefits in the smart card also being used as a proof-of-age card and, in effect, becoming the Young Scot card. An important fundamental principle is involved. All such things are done with the informed consent of the citizen, irrespective of their age, and therefore individuals can make choices on all those initiatives.

**Margaret Mitchell (Central Scotland) (Con):** I thank the minister for the advance copy of his statement. I ask him to focus on the designated services that are the responsibility of the UK Government, but that Scots will require to access. In particular, will he give an indication of the potential cost to businesses in Scotland that will be incurred by the installation of the sophisticated equipment that is necessary to read cards in order to allow employers to check the entitlement of employees to work in the UK?

**Mr McCabe:** That is very much a matter for the United Kingdom Government. Earlier, I said that our interest is in protecting the devolution settlement and the interests of people in Scotland. In the light of the powers that are available to the Parliament, I ask Mrs Mitchell to consult her

Westminster representative—who will probably be a Labour member of Parliament—on such details.

**Stewart Stevenson (Banff and Buchan) (SNP):** I direct the minister's attention to paragraph 1 of schedule 1 of the Identity Cards Bill, which is on personal information. That paragraph states:

"The following may be recorded in an individual's entry in the Register—

- (a) his full name;
- (b) other names by which he is or has been known;
- (c) his date of birth;
- (d) his place of birth"

and so on. The minister will probably know a few Scots who work in London—perhaps his colleagues. There are also Scots who live in Scotland. In issuing identity cards, how will that data be verified before being placed on the national identity register, given that Scottish data that are owned and controlled by the Scottish Parliament will require to be verified? Is it not true that, contrary to what the minister said, there will be implications for devolved areas?

**Mr McCabe:** It is pretty bold to say that the information is owned and controlled by the Parliament. I do not necessarily agree with that and do not think that Scotland's citizens would like to think that we own and control that information.

I know a considerable number of people who work in London around the Palace of Westminster—I even know the alleged leader of the Scottish National Party, although why he is leading that party down in London is a mystery to me, as it is to everyone else in Scotland.

On the data, the enrolment service will control the way in which anything is entered on the national identity register and strict protocols will ensure that only appropriate information is inserted in it.

**The Deputy Presiding Officer:** As we have reached the end of the debate before the time that is set out in the *Business Bulletin* and before we are due to start the next item of business, I suspend the meeting under rule 7.4.1 of standing orders until 11.40.

11:30

*Meeting suspended.*

11:40

*On resuming—*

## Question Time

### SCOTTISH EXECUTIVE

#### General Questions

##### Cannabis Use (Research)

##### 1. Miss Annabel Goldie (West of Scotland)

**(Con):** To ask the Scottish Executive what research has been commissioned in Scotland into the causes of mental health disorders and, in particular, any links with cannabis use. (S20-7142)

**The Deputy Minister for Health and Community Care (Rhona Brankin):** The Scottish Executive has supported a range of research into the causes of mental health problems, including studies of genetic and early-life risk factors for the development of problems later in life, but it has not commissioned any research specifically into cannabis use as a possible cause of mental health problems.

**Miss Goldie:** I thank the minister for her frank response but express a little disappointment in it. Is she aware that a respected academic in Scotland, Professor Neil McKegany, was recently invited to the United States of America by the United States director of national drug control policy to discuss the health dangers of cannabis? That threat is taken very seriously in the United States. Given that Scotland does not want to seem to be behind the United States, does the minister think that it would be appropriate for us to consider invoking the skills of Professor McKegany, so that he can advise us on the illegal use of cannabis in Scotland?

**Rhona Brankin:** My initial response was not intended to imply that we are not aware of some of the research that suggests links between cannabis and mental health problems. Miss Goldie will be aware that the core message of our know the score campaign is that all drug misuse is dangerous. She may also be aware that the Home Secretary has asked the Advisory Council on the Misuse of Drugs to consider all the new evidence for links between cannabis and mental health problems and that in September it will make recommendations on the classification of cannabis. This is a reserved matter, but we will study the council's advice carefully, in case it has implications for our policy.

## Forest Crofts

**2. Eleanor Scott (Highlands and Islands) (Green):** To ask the Scottish Executive what progress it is making towards the establishment of forest crofts. (S2O-7175)

**The Deputy Minister for Environment and Rural Development (Lewis Macdonald):** I have asked for an interim report on options from the forest crofts steering group following its meeting on Monday next week. I will publish a further report and recommendations later this year.

**Eleanor Scott:** I welcome the minister's commitment to forest crofts, which give great opportunities for rural development. Does the minister agree that, given that the majority of Forestry Commission land lies outwith the crofting counties, it would make sense for the draft Crofting Reform (Scotland) Bill to allow for the creation of new crofts outwith that arbitrary line, in order to maximise the potential of forest crofts?

**Lewis Macdonald:** I will read with interest responses from people outwith the crofting counties to the consultation on the draft Crofting Reform (Scotland) Bill. I am aware that on the island of Arran there is a significant body of opinion that it would be helpful for the community to move in the direction of establishing forest crofts. The critical point is that we are seeking to give communities the opportunity to have more say over the use of the land on which they live. Eleanor Scott will be aware that on Monday the Forestry Commission Scotland will launch its national forest land scheme, which will enhance opportunities that were created by the Land Reform (Scotland) Act 2003.

**The Presiding Officer (Mr George Reid):** Keeping it in the family, I call Rob Gibson.

**Rob Gibson (Highlands and Islands) (SNP):** I am unimpressed by the urgency with which the minister is pursuing this matter. The statement of support for forest crofts was made six months ago, but the first meeting of the tripartite group will not take place until Monday. Will the minister indicate how the timetable for introducing forest crofts can be dovetailed with the Crofting Reform (Scotland) Bill, so that we can have an idea of whether there will be more than one form of forest croft because of existing law?

**Lewis Macdonald:** Mr Gibson should be aware that Monday's meeting is the first at which all the parties that are now involved in the steering group will get together, but that the core members of the group—the Scottish Executive Environment and Rural Affairs Department, the Forestry Commission and the Crofters Commission—first met on 7 March. Monday's meeting is not about starting work but about expanding the work that is being done by including in the steering group both

Highlands and Islands Enterprise and the Scottish Crofting Foundation, to represent the views of working crofters. We are treating the matter as significant. We recognise the logic of progressing it alongside crofting reform and new opportunities for forestry land to be used for affordable housing, which will be the subject of the announcement that will be made on Monday. I hope that Mr Gibson will agree that that is a coherent agenda of improved opportunities for rural and crofting communities.

## Sportscotland (Headquarters)

**3. Mr Frank McAveety (Glasgow Shettleston) (Lab):** To ask the Scottish Executive when it will make a decision on the location of the headquarters of sportscotland and what criteria it used in assessing each application. (S2O-7121)

**The Deputy Minister for Finance and Public Service Reform (Tavish Scott):** The matter remains under active consideration by ministers, but I regret that I cannot be specific about when an announcement will be made. The criteria that are being applied to inform our decision are as recommended by the Executive for all relocation reviews. Those involve a first stage that balances socioeconomic benefit with business efficiency equally, followed by a second stage that focuses on the economic and financial appraisal of options.

**Mr McAveety:** Given the decision that was made late in the summer of last year about the development of national facilities for sport, it is crucial, owing to the uncertainty that is faced by the staff concerned, that final decisions are made about the location of the HQ. Does the minister agree that it would be fitting for the HQ to be located within a national athletics sports arena in a city that has invested heavily in sport and in an area that faces the greatest challenge to health and well-being in Scotland? Does he agree that the boost that the HQ would give to the regeneration of the east end of Glasgow would also benefit sportscotland?

**Tavish Scott:** As Parliament would expect, Mr McAveety makes a persuasive case for the part of Glasgow that he represents. All I can say is that these matters are under active consideration. I take his point about the uncertainty that is being experienced by staff and I assure him that the staff will be the first to know about the decision.

**The Presiding Officer:** Mr Watson is stuck in traffic, so question 4 is withdrawn.

## Scottish Schools (Parental Involvement) Bill (Consultation Responses)

**5. Lord James Douglas-Hamilton (Lothians) (Con):** To ask the Scottish Executive, further to the answer to question S2W-16433 by Peter

Peacock on 18 May 2005, whether it will publish responses to the consultation on the draft Scottish Schools (Parental Involvement) Bill on 5 July 2005. (S2O-7146)

**The Deputy Minister for Education and Young People (Euan Robson):** As confirmed by Peter Peacock, in his reply of 18 May 2005, all non-confidential responses to the consultation will be placed in the Scottish Executive library on 5 July—20 working days after the closing date of 7 June. The responses will also be on the website by 12 July.

**Lord James Douglas-Hamilton:** Does the minister acknowledge that there has been a substantial groundswell of representations in support of the retention of school boards? Does he also acknowledge that, in 2004, the Executive republished the School Boards (Scotland) Act 1988 with a new foreword, which sensibly endorsed school boards and stated that they are in a unique position as a mechanism for the two-way flow of information between parents, schools and education authorities?

**Euan Robson:** Of course school boards are unique, because the statute does not allow any alternative. The purpose of the Scottish Schools (Parental Involvement) Bill is to increase parental involvement. There have been a substantial number of responses to the consultation—more than 1,000. As Lord James Douglas-Hamilton said, some responses have stated that school boards in their current form should be retained, but others have argued for change. The Executive will consider all the responses over the summer and publish its response in the autumn.

**Mrs Mary Mulligan (Linlithgow) (Lab):** The minister will be aware that, as Lord James Douglas-Hamilton said, many of the responses that are currently being circulated to MSPs are very supportive of school boards. Can the minister reassure members and parents that, whatever form parent involvement takes, it will have a statutory basis so that parents feel that their voice is heard and, more important, acted on?

**Euan Robson:** Yes, indeed. We will ensure that the arrangements are improved because, as Mary Mulligan may know, at any one time only 1 per cent of parents are involved in school boards. It is our intention to broaden that to include more parents, so that the views of more parents will assist the development of education in Scotland.

**Mr John Swinney (North Tayside) (SNP):** The minister said in his earlier answer that the objective of the bill is to “increase parental involvement” in the management of schools. Although strong claims are being made by parents and school boards for the retention of school boards, what specific mechanisms will the minister

put in place to guarantee that whatever comes out of the bill will lead to an increase in parental involvement?

**Euan Robson:** We make every effort in the draft Scottish Schools (Parental Involvement) Bill to increase parents' involvement. The details of how we will do that have been set out in the draft bill, but we will consider all the responses that we received during the consultation period, which has just ended. For example, as Mr Swinney says, we will consider how parental involvement in the management of schools can be enhanced. We will publish our proposals in the autumn.

#### Inquiries from MPs

**6. Brian Adam (Aberdeen North) (SNP):** To ask the Scottish Executive whether it has a policy on responding to inquiries from MPs about individual constituents in respect of devolved matters. (S2O-7147)

**The Deputy Minister for Parliamentary Business (Tavish Scott):** All letters from MPs or MSPs on devolved matters are seen and replied to by ministers. Those that relate to operational matters are replied to by the Scottish Executive agency concerned.

**Brian Adam:** I agree with that approach. Does the minister agree that constituents look for whichever elected representative they approach to address their individual concerns about government, irrespective of whether it relates to a council, Holyrood or Westminster? Does he share my concern that the Home Office has refused me an answer to a question that I raised on behalf of one of my constituents, on the ground that the issue is reserved? Will he, along with his colleagues, make representations on behalf of us all to have that new practice reversed?

**Tavish Scott:** Ministers here are responsible and accountable for the areas under their responsibility. I reiterate the point that our responsibilities are to reply—and we do—to all letters that we receive from both members of Parliament and members of the Scottish Parliament.

The matter raised relating to Westminster is one for the Government at Westminster. It is not for me or any other minister in this place to tell it how to run its business; I would not expect Mr Adam to suggest that it was. All that I can do is commend to him my own policy: I speak to my MP and he takes the matter up.

**Mike Pringle (Edinburgh South) (LD):** Does what the minister has just said mean that there is no agreement between the Executive and Westminster departments on a consistent approach to dealing with constituency correspondence from the other legislature? Like

Brian Adam, I have had great difficulty in dealing with matters when my constituents have raised reserved issues. I have not received a very satisfactory response.

**Tavish Scott:** I can only repeat that our approach to the issue is as I have described. We respond to letters from members of Parliament and from members of the Scottish Parliament. Mr Pringle may know that, for example, the Ministry of Defence and the Department for Work and Pensions provide a ministerial response to letters from MSPs. However, those matters are an issue for a Government in a different place.

### Asperger's Syndrome

**7. Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD):** To ask the Scottish Executive what support it is providing for people living with Asperger's syndrome. (S2O-7094)

**The Deputy Minister for Health and Community Care (Rhona Brankin):** The Scottish Executive is working to improve services across health, education and social care agencies for people with Asperger's syndrome and their families. Our programme of work is improving awareness and understanding of Asperger's syndrome and other autistic spectrum disorders and it will give people quicker access to diagnosis and the supports that are appropriate to individual needs.

**Jeremy Purvis:** Does the minister agree that it is very important to give high-quality support to people who are living with Asperger's syndrome, such as my constituent Morna Edmond, who approached me on the subject? Such support is important as it helps people with Asperger's syndrome to live full and enriched lives. Will she also ensure that the Executive raises awareness among all general practitioners about Asperger's syndrome and that people who are living with Asperger's syndrome are part of that information awareness programme?

**Rhona Brankin:** Absolutely. We must continue to raise awareness. We have been appointing autism co-ordinators in different regions of Scotland—the Executive has funded a co-ordinator in the Borders. I would be pleased if Jeremy Purvis and his constituent would work with the co-ordinator in the Borders to supply information and support to GPs. His constituent understands the issues as a sufferer of Asperger's, but also as someone who does not have learning disabilities and is keen to be involved.

### National Health Service (Public Participation)

**8. Bill Butler (Glasgow Anniesland) (Lab):** To ask the Scottish Executive what plans it has to

increase the level of public participation in the running of the NHS. (S2O-7105)

**The Minister for Health and Community Care (Mr Andy Kerr):** Public engagement is important in planning for NHS services and ensuring that the NHS is responsive to the public's needs and we are already doing a great deal on that. We have legislated for a statutory duty on NHS boards to involve the public, have established the Scottish health council and are setting up local advisory councils. We are setting up community health partnerships, each of which will have a public partnership forum. We will take forward the recommendations on public engagement and involvement in Professor David Kerr's report. In addition, this summer, I am holding annual reviews in public with all NHS boards. That is a substantial and far-reaching programme to continue and enhance public engagement in planning for and delivering NHS services.

**Bill Butler:** The minister will be aware that my proposal for a member's bill on direct elections to NHS boards is published in today's *Business Bulletin*. I hope that its resubmission will attract signatories of my previous proposal on the same matter as well as new signatories and I commend it to members. Will the minister indicate how the Executive is minded on the resubmitted proposal, which would extend direct democratic accountability and involve public participation?

**Mr Kerr:** I would want to consider that point once I have had a chance to examine Mr Butler's bill fully. As I indicated in my first answer, substantial pieces of work that are being undertaken in the health service will ensure that patients and the public are involved in determining how we organise our health service. In addition, senior elected representatives from each local authority are included on NHS boards, the National Health Service Reform (Scotland) Act 2004 has ensured public involvement and the Local Government in Scotland Act 2003 has ensured NHS participation in community planning. I argue that we ensure that the public's voice is heard on many issues, but I look forward to Mr Butler's bill with interest.

### Cattle and Sheep Marketing (Remote Areas)

**9. Rob Gibson (Highlands and Islands) (SNP):** I am sorry, I do not have the question here. [*Interruption.*] To ask the Scottish Executive what help has been offered to producers in remote areas and islands to market their cattle and sheep. (S2O-7153)

**The Minister for Environment and Rural Development (Ross Finnie):** The answer to the non-question is that, since 2001, the Scottish Executive has provided well over £500,000 towards beef and lamb marketing projects,



resulting in a total investment of £1.2 million in remote areas and the islands.

**Rob Gibson:** I thank the minister for his non-answer. The sheep might be prepared to accept what he says but, to be frank, we in the Opposition do not like answers that leave many farmers and crofters in the lurch. We have asked the minister in the past about help with livestock transport costs and have had no answer. Will he reflect on the fact that we need to know how it will be made possible for farmers and crofters to continue to produce sheep and cattle in remote and island areas for the long term?

**Ross Finnie:** Rob Gibson is drifting away in his non-supplementary. I am sure that he is aware that the Minister for Enterprise and Lifelong Learning, the Minister for Transport and I are heavily engaged in determining how we produce a scheme that is satisfactory for the transport of northern isles livestock. It is not a question of our not having any ambitions or wishes to do so. As Rob Gibson is also aware, other representatives have approached the European Commission on that matter. We are committed to ensuring that the arrangements—not only the specifications of the vessels that might provide the transport, but the level of support—are adequate and appropriate to ensure that farmers and crofters in remote island communities will continue to be able to trade their livestock on the mainland.

## NHS 24

**10. Stewart Stevenson (Banff and Buchan) (SNP):** To ask the Scottish Executive what plans it has to create local call centres for NHS 24. (S20-7145)

**The Minister for Health and Community Care (Mr Andy Kerr):** As members are aware, the interim report from the independent NHS 24 review group that was set up in February was published on 2 June. The report makes recommendations for changes to improve the operational performance of NHS 24 and noted that NHS 24 was already developing better ways of delivering services to callers, including the setting up of mini-centres.

**Stewart Stevenson:** Does the minister agree that local delivery will always be better than remote delivery because local delivery draws on local knowledge? Many of the villages in my constituency have names that do not appear on the Ordnance Survey map and confusion can arise because of that. Will the minister give us a date when some of the mini-centres might come into operation and start to serve local needs?

**Mr Kerr:** There are some good examples in the Highlands. Highland NHS Board, the Scottish Ambulance Service and NHS 24 are planning to

collocate staff providing out-of-hours services in Inverness. Good progress is being made with those plans. The aim is to benefit patients in the Highlands and Islands through that better co-ordination of out-of-hours services. It is also a matter of maximising local knowledge, to which the member refers.

There are some occasions when services are best provided locally, but there are other occasions when they are best provided on a national basis. Those are difficult decisions for us all to take, but I share the member's view that local mini-centres will make a positive impact in the provision of NHS 24's services, which are vital.

## First Minister's Question Time

12:00

### Prime Minister (Meetings)

**1. Nicola Sturgeon (Glasgow) (SNP):** To ask the First Minister when he will next meet the Prime Minister and what issues will be discussed. (S2F-1721)

**The First Minister (Mr Jack McConnell):** I expect to meet the Prime Minister at the G8 summit in July.

**Nicola Sturgeon:** I remind the First Minister that the future of Ferguson Shipbuilders in Port Glasgow, one of only three shipyards remaining on the Clyde, and the jobs of the 300 people who work there depend entirely on its winning a Scottish Executive contract to build fisheries protection vessels. Will the First Minister tell his fisheries minister to stop dithering over the matter and instruct him to award that lifeline contract to Ferguson's now?

**The First Minister:** I am obviously a bit restricted by the rules of procurement and tendering in going into all the details of the case, but I can assure Ms Sturgeon that we are examining the tenders for the contract very carefully. In particular, we are looking at the evidence that has been presented to us—and not just recently—on the actions of the Polish Government and Polish yards and the evidence that we took to the Department of Trade and Industry and the Department for Transport last October in relation to similar claims.

The only dithering that has been going on in relation to this issue has related to the contracts for fisheries protection vessels. I remind Ms Sturgeon that the last time we gave Ferguson's a contract for a fisheries protection vessel, her front-bench spokesperson Richard Lochhead said:

"Our fishermen will be holding their heads in their hands when they learn Ross Finnie has spent almost £8 million on a brand new boat to keep them in their place."

The last time we awarded a contract to Ferguson's, we were condemned by the Scottish National Party. The Government is determined to deliver for Scottish shipbuilding and to ensure that we have fisheries protection vessels in place.

**Nicola Sturgeon:** I suggest that the First Minister raises his game. The work on the vessel has been commissioned by the Scottish Executive. The question is: will the work go to Poland or will it go to Port Glasgow? Is it not the case that the Executive has been told repeatedly that the Polish yard in question is being subsidised? It won a contract over Ferguson's last

year with a bid that would not even cover the cost of the materials, for goodness' sake. I remind the First Minister that, thanks to the SNP taking action, the European Commission is now so concerned that it has launched a formal investigation into the Polish yard. What is it going to take to make him come down on the side of a Scottish industry, a Scottish shipyard and Scottish jobs? To quote Trish Godman—one of his own MSPs—why will he not show "some backbone"?

**The First Minister:** Not only is there plenty of backbone here, but there has been lots of action to try to ensure that Ferguson's not only wins the current contracts that are out to tender but, as in the past, has further contracts awarded to it, despite the opposition of the Scottish nationalist party. It is wrong to imply—as was done around the time of the visit to Brussels to which Ms Sturgeon alludes—that the problem could in some way be solved by transferring responsibility for the vessel that we are discussing from the Scottish Government and the Scottish Parliament to the British Royal Navy, the British Government and the Ministry of Defence.

After the visit to Brussels, the SNP leadership called for us to reclassify the vessel as a grey vessel—in other words, a military ship. That would mean that it would pass into the hands of the Ministry of Defence, rather than the Scottish Parliament. That would also mean that Scottish fisheries protection was no longer considered the responsibility of this devolved Parliament, but was instead handed back to the Ministry of Defence and the British Government.

The SNP cannot have it both ways on this. I absolutely welcome its support and the support of any other party in the Parliament for the efforts that we have undertaken not only to help Scottish shipbuilding but to ensure that anybody who breaks the law and distorts state aid rules anywhere in the European Union is dealt with.

The SNP's intervention, although perhaps late, is very welcome to us. We should be acting on an all-party basis. At the same time, we need consistency, not hypocrisy. We need honesty for the workforce at Ferguson's, not rubbish that would lead it up the garden path and lead to the yard getting no contracts at all in the future.

**Nicola Sturgeon:** The First Minister has just confirmed that there are many ways in which the Scottish Executive could have given the contract to Ferguson's by now; instead it has chosen to do nothing. Does he begin to understand the urgency and seriousness of the situation? Does he know that while he politicks, more than 100 jobs at Ferguson's have gone, that a further 21 will be lost two weeks from today unless the contract is awarded and that many more will follow? As even the local Labour MSP said yesterday, "we cannot

wait.” The contract should go to Ferguson’s right now.

I suggest to the First Minister that instead of cowering in a corner in case someone in Europe gives him a row, he should take the decision and make it clear that if it is challenged he will defend it. That is called standing up for the national interest. Why will he not do it?

**The First Minister:** Miss Sturgeon’s only two solutions to the issue are either to hand over responsibility to the Ministry of Defence, which would allow shipbuilding yards the length and breadth of Britain as well as yards in Poland to compete afresh for the tender, or to break the law, as she is now suggesting. That is utterly irresponsible. The best way to deal with any allegation of law breaking elsewhere in the European Union in relation to contracts is to have it investigated properly. That is what we called for—not in April, in the middle of an election campaign, but last October, when we first approached the European Union and, of course, the British Government about the issue. That has been, and will continue to be, our consistent approach in response to any evidence that has come either from Ferguson’s or elsewhere. We are determined not only to stick to the law but to ensure that others elsewhere in the European Union stick to the law too. We are also determined to ensure that Scottish shipbuilding has the best chance possible, rather than condemn the Executive—or anybody else—for awarding fisheries protection vessel contracts to Scottish shipbuilding yards, as the SNP did not that long ago.

**Nicola Sturgeon:** The First Minister has just confirmed that, all along, it has been the SNP that has come up with possible solutions and the Scottish Executive that has done absolutely nothing. Is he not aware that all Ferguson’s shipyard wants is fair treatment and a fair go? While he dithers, jobs are being lost. Will he take a decision now in favour of a Scottish industry, a Scottish shipyard and Scottish jobs? Will he take that decision and defend it? Will he stand up for Scotland?

**The First Minister:** I repeat that the last time that Ferguson’s got a fisheries protection vessel contract from the Executive, the SNP said that people would hang their heads because it was such a disaster for Scottish fishing. The SNP opposed that contract. It cannot now come in late—six months after we first raised the allegations—and claim that it is being consistent.

I welcome the SNP’s conversion. I want this to be an all-party effort. I want to ensure that in this Parliament we stick together, we promote Scottish shipbuilding and we tackle those elsewhere in the European Union who, it has been alleged, have

broken the rules. Let us be consistent about it and not say one thing to one audience and another thing to another audience.

**The Presiding Officer (Mr George Reid):** As is my practice on such issues, I call the constituency member, Trish Godman.

**Trish Godman (West Renfrewshire) (Lab):** Like the First Minister, I will take any support for Ferguson’s, even if it is from Johnnys-come-lately. I point out to the SNP that the reason why we are having this discussion is that when Andy Kerr was Minister for Finance and Public Services—

**The Presiding Officer:** Question for the First Minister.

**Trish Godman:** When Andy Kerr was Minister for Finance and Public Services, at my pushing and shoving, he moved the money forward so that the ships could be built this year, and not next year, as planned originally.

Does the First Minister agree that we have to have complete confidence in Ferguson’s workforce, as I am sure everyone in this room has? Will he assure me again that the Scottish Executive does not put Scottish companies at a disadvantage with regard to its interpretation of EU procurement rules and that it will do everything in its power to make sure that the order comes to Ferguson’s? This is my final plea to the First Minister. The decision has to be made as soon as possible.

**The First Minister:** We are well aware of the urgency of the situation and Trish Godman’s consistency in raising the issue. We are also well aware of Ross Finnie’s and Andy Kerr’s efforts to ensure that the work might be available should Ferguson’s succeed at tender.

However, we have to be honest. We cannot give preferential treatment to one company, whether it is in Scotland or anywhere else. We have to ensure that the tender process is carried out legally and properly. If there is an allegation that the process has been handled improperly elsewhere in the European Union, or for that matter, here in Scotland, we should—as we have done—demand that the European Commission investigate that allegation.

The rules have to be implemented fairly, properly and consistently, and that means that we have to implement them in that way too. Although we will do all that we can to secure a future for Scottish shipbuilding in all the remaining yards in Scotland and to ensure that there is fair play in the award of the contract, we cannot put one company at an advantage ahead of any others in a tender process that has already begun—otherwise, we would be breaking the law, and that would be wrong.

### Cabinet (Meetings)

**2. David McLetchie (Edinburgh Pentlands) (Con):** To ask the First Minister what issues will be discussed at the next meeting of the Scottish Executive's Cabinet. (S2F-1722)

**The First Minister (Mr Jack McConnell):** At the next meeting of the Cabinet, we will discuss our progress towards building a better Scotland.

**David McLetchie:** I hope that there will also be further discussion of the Management of Offenders etc (Scotland) Bill. I remind the First Minister that on 10 March this year he told me:

"I believe that the early release of prisoners without condition is unacceptable to the people of Scotland and needs to be reviewed sensibly and in a judicial context."— [Official Report, 10 March 2005; c 15236.]

How does that square with the Minister for Justice's announcement that the Executive is to end unconditional early release of sex offenders on short-term sentences in advance of the publication of the report of the First Minister's own Sentencing Commission for Scotland, particularly in light of the comments made by Lord Macfadyen, the commission's chairman, that there is no justification for doing so before the review is complete?

**The First Minister:** The case for doing so is absolutely crystal clear. Although we seek advice from the Sentencing Commission, we are not duty-bound to accept it. We set up the Sentencing Commission to advise us on sentencing, but ultimate responsibility for sentencing lies with this Parliament and with the Executive, which reports to the Parliament. We will continue to take the actions that we see are required, but we will do so in a measured way, taking the advice of the Sentencing Commission as we go along.

In relation to sex offenders, I am not sure where Mr McLetchie's question was pointing—in different directions at the same time, which is perhaps a more familiar refrain from the SNP. However, if he is saying that we are right to end the early release of sex offenders, he should say so and he should welcome the Minister for Justice's announcement. If he is saying that we are wrong, he is contradicting everything that he has said in the chamber over the past few months.

**David McLetchie:** Of course I welcome the wholly inadequate measure that was announced this morning as a tiny step along the road to a policy that, as the First Minister is well aware, we on this side of the chamber have been advocating for the past six years.

However, the truth of the matter is that today's announcement by the Minister for Justice is simply about tinkering with the conditions under which people are let out of jail. It will not keep people in

prison conditions, which are necessary to protect the public. If the First Minister is prepared to ignore advice from the Sentencing Commission on the matter, why does he not just forget about the Sentencing Commission, as we have urged, and adopt our principled position of ending automatic early release for all categories of prisoner? Will he and the Executive finally accept the strength of the argument for doing so and support the amendment that we will lodge at stage 2 of the Management of Offenders etc (Scotland) Bill to end automatic early release for all? Then there will be no more get-out-of-jail-free cards in Scotland.

**The First Minister:** There are occasions when laws need to be made in a hurry, but there are also many occasions when bad laws can be made in a hurry. We have made absolutely clear our commitment, not just in relation to the Management of Offenders etc (Scotland) Bill, to end automatic early release for sex offenders and, ultimately, for other offenders. However, we will do so sensibly and properly and we will think through the implications.

We will ensure that our prisons retain for longer periods of time under tighter conditions those who are a most serious threat to people in the local community, while creating new arrangements for those who are not a physical danger in the local community but who have been sentenced for other reasons. We will ensure that they are properly rehabilitated so that when they get back into society they do not turn back to robbery, vandalism or other crimes, but become useful members of society. That is what this morning's debate was all about.

It is entirely possible that the Scottish Conservatives missed the point, which is that, through the management of offenders, we are determined to reduce reoffending in Scotland. We are determined to ensure that we have tighter and better sentences for those who are serious sexual, physical, violent offenders. However, we are also determined that other offenders are brought back into the community in a way that ensures that, in the years that follow, they are less of a problem for the other members of the community than they were in the past.

**The Presiding Officer:** Brief question and answer, please.

**David McLetchie:** The First Minister should be aware that the public do not miss the point. They are well aware that in recent times some appalling offences have been committed by prisoners who were let out of jail early by the Scottish Executive. Frankly, the First Minister's arguments become more illogical by the minute. First we need a sentencing commission; now we do not. He told me previously in this chamber that decisions about early release should not be taken on the hoof—yet

he has just taken a decision on the hoof. He told me that we should not have knee-jerk reactions on the issue—except when it is his knee that is doing the jerking. Will he finally take the action that is necessary to protect the public by ending automatic early release, or is the real truth behind today's announcement of yet more conditions that, in reality, the Scottish Executive has absolutely no intention of ending automatic early release?

**The First Minister:** I know that, historically, the Scottish Conservatives have a listening problem, but I hope that Mr McLetchie hears what I am saying for the umpteenth time in this chamber. Automatic early release will be ended, but we will do that properly, taking into account all the appropriate factors, and we will do so urgently in relation to sex offenders, where there is a legitimate concern in the community that needs to be addressed.

Through the Management of Offenders etc (Scotland) Bill, we will make sure that, because programmes have failed in Scotland in the past, in future programmes are in place to ensure that people do not reoffend and that they have either the skills or the change in attitude that is required to make them more productive, useful and successful members of society after they have seen through their sentence. Through a comprehensive programme of reforms, we are determined to ensure that we have tougher and better sentences for violent and sex offenders, and that the vast majority of other offenders are put on a path that makes them better members of society.

**The Presiding Officer:** Colin Fox is sick, so question 3 falls. I therefore call Frances Curran for one question.

**Frances Curran (West of Scotland) (SSP):** I want to ask the First Minister about the comments that were made yesterday by Alex Salmond, leader of the Scottish National Party. Mr Salmond insisted that SNP-controlled Perth and Kinross Council and Tayside police withdrew permission for a march and rally at Gleneagles under pressure from Charles Clarke, the Westminster Home Secretary, who, I remind this Parliament, has no power over Scottish local government or policing. Will the First Minister condemn the decision taken by an SNP council, apparently under direct pressure from Westminster, and will he intervene as First Minister of Scotland to ensure that the democratic right of the people of Scotland is upheld in our own country?

**The First Minister:** Where do I start with that? First, let us be clear that everybody should stop passing the buck when they have decisions to make. Perth and Kinross Council has a decision to make. It should make its decision, defend it in public and stop blaming anybody else for it.

Secondly, we should ensure that any demonstrations that are organised in Scotland around the make poverty history campaign, in advance of or during the G8 summit, should be organised properly, organised with the responsible authorities and organised in a responsible way. I know that Frances Curran is irresponsible—that is part of her party's policy—but I thought that it was irresponsible of Alex Salmond to do what he did yesterday, when he tried to make this an issue between London and Perth, urging changes that would allow people to demonstrate in a way that might not be appropriate locally.

We all need to be responsible. People need to have a voice and to express that voice in the democracy that we have here in Scotland and in the UK in a way that will have an impact at the summit. There is also a necessity to protect local people, to ensure their security and to allow their business to be conducted in an orderly fashion. Getting that balance right is a job for us, in relation to provision across Scotland, for the chief constables in Tayside and Edinburgh and for Perth and Kinross Council. If the council wants to do what it has proposed, it will have my full support.

**The Presiding Officer:** There are two urgent constituency questions that we can dispose of briefly. I call Fergus Ewing.

**Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP):** I raise a constituency question, of which I have given the First Minister notice. He will be aware that, this week, Lochaber was dealt a crushing blow with the threat to Arjo Wiggins paper mill in Corpach and the possible loss of 130 jobs. There is a consultation period of 90 days, however, and I invite the First Minister, as a sign of the Scottish Executive's commitment, to arrange for the Minister for Enterprise and Lifelong Learning to meet next week the directors of the company, in order to ensure that every possible measure to avert the closure—whether by diversification, a new purchaser or other means—is found.

**The First Minister:** I am sure that the Minister for Enterprise and Lifelong Learning will be happy to do that, and he may already have made that offer. What is more important than simply having meetings is that we act as quickly as possible. Executive officials and officials from Highlands and Islands Enterprise were engaged with the company on the issue on Tuesday. It is a serious issue for the local community, and I understand that those officials will also be going to Paris next week to meet the company's management at that level. We are already actively engaged in the matter. The Minister for Enterprise and Lifelong Learning will be happy to have discussions with the company's management, but we must ensure that we also act quickly.

**Dennis Canavan (Falkirk West) (Ind):** Does the First Minister share my concern about the proposed closure of the Carrongrove paper mill in Denny, which is one of the largest industrial employers in the area, and about the fact that the closure announcement was made without any prior consultation with the workforce or their trade union? In view of the fact, last year, Carrongrove generated sales revenue of £26.2 million and operating profits of £1.62 million, will the First Minister do everything possible to stop what looks like a shabby asset-stripping exercise? In particular, will the Scottish Executive contact the chief executive of Inveresk plc and trade union representatives of the workforce to explore every possible alternative to closure and to offer the workforce all possible assistance and advice?

**The First Minister:** Again, the ministers with responsibility for enterprise and their department will be happy to investigate those specific points with a view to providing any assistance that is required. It is regrettable that, in this instance, the company did not, as I understand it, make the effort to consult with anybody locally in advance of the announcement. Although everyone in the chamber is aware that, from time to time, Scottish companies or international companies that are based in Scotland restructure, we must be in a position to help local employees with any restructuring process, to help them into new jobs or to acquire new skills, or to help new owners to take over plants. We can do that only if the companies that are making such decisions cooperate with us, and I urge the company in this case to make every effort to do so over the coming weeks.

### Malawi Appeal

**4. Des McNulty (Clydebank and Milngavie) (Lab):** To ask the First Minister whether the announcement on the countries that will benefit immediately from debt relief will affect the Scottish Executive's Malawi appeal. (S2F-1738)

**The First Minister (Mr Jack McConnell):** I warmly welcome the G8 finance ministers' decision to cancel the debts of heavily indebted poor countries. We hope that that will benefit Malawi when it qualifies for debt relief. The people of Malawi, like those of other poor nations, also need increased aid and changes in trading rules to help to grow their economy. Alongside those Government actions, I am certain that the generosity of Scots can contribute to individual essential projects and that our practical assistance can help Malawi to be less dependant and more successful in future.

**Des McNulty:** Although corruption is a problem in some African states, I am sure that everyone who attended the recent G8 international

parliamentarians conference in the Holyrood building was impressed with the commitment, energy and capability of African elected representatives and representatives of civic society. Does the First Minister agree that any assistance that the Scottish Parliament and Scottish civic society can give African legislatures and civic society in strengthening their governance and scrutiny arrangements would represent a positive contribution to the objectives that were set out in the report by the Commission for Africa?

**The First Minister:** During the past week, there has been an attempt by some irresponsible people to imply that the speed with which Malawi is reaching the stage at which it will qualify for debt relief should discourage Scots from contributing their time or resources, or discourage the British Government from being part of a debt relief or aid effort in Malawi. That is the wrong conclusion to draw. It is right and proper that the Government of Malawi must meet the conditions that it is required to meet. When I met Malawi's President during my visit to the country last month he was absolutely committed to meeting those conditions. He has introduced a system of accountable officers, which members of this Parliament would recognise, in relation to financial management and governance. We welcome that. The President said that he is committed to taking a zero-tolerance approach to corruption. We should support him in that. He also wants to build links between Malawi's Parliament and the Scottish Parliament, to ensure that parliamentarians can learn from one other. Although in Scotland we might believe that parliamentarians in Malawi can learn more from us than we can learn from them, I suspect that the process might be much more mutual.

### "Review of Management Arrangements of Colyn Evans"

**5. Tricia Marwick (Mid Scotland and Fife) (SNP):** To ask the First Minister whether the Scottish Executive intends to order an independent inquiry following the publication of the internal Fife Council and Fife constabulary report, "Review of Management Arrangements of Colyn Evans". (S2F-1725)

**The First Minister (Mr Jack McConnell):** First, I would like to record my sympathy for the family of Karen Dewar. It is not possible to bring her back, but it is possible to make the changes that will help to prevent any similar loss in the future. We have therefore instructed the Social Work Inspection Agency and Her Majesty's inspectorate of constabulary to scrutinise the report of Fife Council and Fife constabulary, identify issues that require further action from Fife Council, Fife constabulary or anyone else, and produce an updated report. We will then determine the actions that are required.

**Tricia Marwick:** I welcome the decision to set up an independent inquiry. That news and the First Minister's words will bring some comfort to Karen Dewar's family, who feel badly let down by Fife Council and Fife constabulary.

Will the First Minister give an assurance that the inquiry will also examine the period that Colyn Evans spent in Geilsland School as well as his release from supervision? Will he also give an assurance that the independent report will be published in full?

**The First Minister:** On the assumption that the report does not contain information about individuals who should not be subject to public scrutiny, I see no reason why it should not be published. I would always include that caveat, because sometimes we must ensure that the wider family is protected, although I do not suspect that that will be the case in relation to this report.

It is essential that we build confidence among people not just in Fife but elsewhere, so that when local communities rely on public services—the social work service or the police force—to protect them from individuals who might cause harm, they can be confident that the right procedures are in place. In far too many cases in Scotland that is not the case. The Executive and the Parliament have been very clear about the need to improve child protection services, to ensure that they are more consistent and reliable. We are determined to see that work through.

In the case to which the member refers, it is clear that the situation that arose relates particularly to the issue of people who have been involved in the children's hearings system in relation to matters, which might include sex offences, being lost by the system when they enter adulthood. If that is the case, there is an issue for us to address in this Parliament, as well as issues for Fife Council and Fife constabulary to address.

My absolute sympathy goes to the family. I want them to be assured that we are determined to take the action required.

### **Radioactive Waste (Storage)**

**6. Nora Radcliffe (Gordon) (LD):** To ask the First Minister what the Scottish Executive's role will be in the selection of sites for storage of radioactive waste. (S2F-1728)

**The First Minister (Mr Jack McConnell):** There is no site selection process at present for the disposal of radioactive waste.

The Committee on Radioactive Waste Management is currently consulting on its shortlist of options for the long-term management of higher-activity radioactive waste. The options are

deep disposal, phased deep disposal, shallow burial of short-lived waste, and interim storage

CORWM will make recommendations to the Scottish Executive in mid-2006. We will take the decisions on the management options for Scotland and determine any site selection process thereafter.

**Nora Radcliffe:** Does the First Minister agree that monitoring of radioactive waste should continue however and wherever it is stored; that waste should be retrievable if problems arise or new technological solutions are developed; and that, if the carbon implications of the transport and containment of waste are factored in, nuclear is not a carbon emission-free source of energy? Finally, will the Executive ensure that we accept responsibility for our own waste but strongly oppose any efforts to make Scotland a nuclear dump for the whole of Britain?

**The First Minister:** I think that that was four supplementaries. I think—if I get the order right—that the first two answers are yes and yes. On the question of carbon emissions, it is certainly the case that not all renewable forms of energy are carbon-free, so that is a factor that has to be taken into account. On the fourth point, I want to say two things. Of course, we do not want Scotland to be a dump for nuclear waste. However, we have to be careful about the terminology that we use and about the way in which people can be manipulated to get wound up about this issue. It is Scotland that creates much of the nuclear waste in Britain. We have a responsibility to deal with that waste; those who suggest that we do not are highly irresponsible.

Our job is to ensure that we store and ultimately dispose of nuclear waste in the most effective way possible. We do so while accepting our responsibilities as a nation that has benefited from nuclear energy over the years and which has to tackle the problems that might be associated with it.

**The Presiding Officer:** That ends question time.

I remind members that the First Minister and I will now present the awards in the Citizenship Foundation Holyrood national youth parliament competition. Members who have students from their constituencies in the gallery are invited to stay on.

12:33

*Meeting suspended until 14:15.*

14:15

*On resuming—*

## Question Time

### SCOTTISH EXECUTIVE

#### Justice and Law Officers

##### Bail (Offences)

##### 1. Mr Kenneth Macintosh (Eastwood) (Lab):

To ask the Scottish Executive what action it is taking to protect the public through reducing the number of offences committed by people already on bail. (S2O-7122)

##### The Minister for Justice (Cathy Jamieson):

There is clear public concern, which ministers share, about the frequency of people reoffending on bail. We asked the Sentencing Commission for Scotland as one of its first priorities to review the use of bail and remand; its report was published in April. Where we need to legislate to tighten up the procedures, we will do so. We have made provision to pilot electronic monitoring as a condition of bail in murder and rape cases. That is a significant tightening of the previous law, under which bail could be granted for those who were convicted of murder or rape without any such additional safeguard.

**Mr Macintosh:** Is the minister aware of the case of one of my constituents, a young woman who was stabbed? The alleged attacker was not held but was given a court date without even being asked for bail. I realise that the minister cannot comment on a current case, but she will appreciate that that experience was very upsetting, especially as, two weeks after the incident, the young woman was confronted by her assailant, who was drunk in a street in Glasgow.

As a first step to reassuring my constituent and other individuals that the law is on their side in such circumstances, will the minister say what steps the Executive will take to reduce not just the incidence of people reoffending while they are on bail, but the number of people who commit offences—particularly violent offences—between arrest for one offence and their prosecution in the courts?

**Cathy Jamieson:** Clearly, it would not be appropriate for me to comment on the specific case, especially if it is still to be dealt with through the due process of the courts. However, I can say that we are concerned to ensure that, as a general principle, we take every possible step to make the conditions of bail clear to people. If there are particular circumstances associated with that

case, the member may wish to write to me or to the law officers so that the matter can be looked at more closely. As I said, we intend to tighten up the legislation. I would be concerned whenever someone who had been a victim was faced with the alleged offender at a later point in the proceedings and a further offence was committed.

##### Knife Crime

##### 2. Margaret Mitchell (Central Scotland) (Con):

To ask the Scottish Executive when its five-point plan to tackle knife crime will be implemented. (S2O-7139)

##### The Minister for Justice (Cathy Jamieson):

We are determined to rid Scotland of its unacceptable record on the use of knives. We will legislate on three of the five points in the proposed police bill, which will raise the minimum age for the purchase of a knife to 18, double the sentence for possession to four years and strengthen police powers of arrest. We intend to consult soon on the other two points—restricting the general sale of non-domestic knives and licensing the sale of swords.

**Margaret Mitchell:** Does the minister agree that knife crime and the knife-carrying culture are a major problem in Scotland? Is she aware that, in the region that I represent, local papers report serious incidents involving knives every week? Given the fact that the action plan was announced by the First Minister in November, does she acknowledge that the delay in introducing the bill, which should be a priority, is totally unacceptable?

**Cathy Jamieson:** I am not sure whether the member has paid any attention to the fairly numerous comments that I have made on the subject in the chamber, both in debates and in answer to parliamentary questions. It is absolutely unacceptable that we continue to have such a problem with knives and other weapons being used on the streets of Scotland. That is why we are determined to do something about it and that is why the action plan was put in place.

It is all very well for Opposition members such as Mrs Mitchell to suggest that there has been a delay. The Parliament will legislate in proper and due course and part of that process is proper scrutiny of the bill. We have put a number of issues out to consultation and we will consult on others. That is the right and proper thing to do. It would be more useful if the Conservatives spent some time examining the work that we are doing through the Management of Offenders etc (Scotland) Bill and in tightening up the legislation.

##### Environmental Crime (Fines)

**3. Mr Mark Ruskell (Mid Scotland and Fife) (Green):** To ask the Scottish Executive what the



average fine was for an environmental crime in 2004. (S2O-7174)

**The Lord Advocate (Colin Boyd):** The latest available statistics are for 2003. Environmental crime is a term that covers many types of offence, from litter offences, for which the average fine was £84, to failures to comply with or contravention of enforcement or prohibition notices, for which the average fine was £8,000.

**Mr Ruskell:** Of the environmental crime cases that the Scottish Environment Protection Agency reports to the procurator fiscal, has the proportion that result in prosecution increased since the employment of the specialist environmental procurators fiscal?

**The Lord Advocate:** I cannot tell the member whether there has been an increase in relation to the cases that SEPA reports to the procurator fiscal. However, he is right to point out that we have a network of specialist environmental prosecutors who work closely with SEPA in the preparation of cases—they have been working particularly to ensure that the evidence required by the courts is presented to the procurator fiscal to maximise the number of successful prosecutions.

As the original question was about fines, Mr Ruskell might be interested to know that, for the cases reported by SEPA to the procurator fiscal, the average fine level in 2001-02 was £2,226. That figure more than doubled in 2002-03, when the average figure was £5,021. That might simply be a result of the types of cases that were reported, but it might also indicate a level of success.

**Alasdair Morgan (South of Scotland) (SNP):** In the area of wildlife crime, is the Lord Advocate content that the sentences that are handed down after guilty verdicts are high enough, especially given the number of cases in which, as the newspapers report, disturbingly low fines are levied for very serious offences?

**The Lord Advocate:** The penalty that is imposed for any crime is a matter for the courts. However, we have of course increased the penalties that are available to the courts, including imprisonment under the Wildlife and Countryside Act 1981. Although I cannot think of a case off the top of my head where that sentence has been imposed, the penalty is now available to the courts.

**Nora Radcliffe (Gordon) (LD):** The availability of procurators fiscal with specialised training in environmental criminal matters is a welcome step forward. In answer to a question that I asked about the introduction of environmental courts, Ross Finnie indicated that the Executive was considering how different jurisdictions deal with environmental matters. Will the Lord Advocate

commit to publishing the outcome of that work and can he say when that might happen?

**The Lord Advocate:** It is too early to set firm dates for the publication of any proposals, but we shall, of course, publish the outcome of our considerations on environmental courts. I hope that we will be able to do so either later this year or early next year.

**The Presiding Officer (Mr George Reid):** Questions 4 and 5 have not been lodged. The Presiding Officers will be considering the incidence of questions that are not lodged.

### Offenders (Employment)

**6. Jim Mather (Highlands and Islands) (SNP):** To ask the Scottish Executive what steps are being taken to ensure that each person who has completed a custodial sentence has the best opportunity of becoming legitimately economically active and what mechanisms are in place or are planned to record their employment status. (S2O-7161)

**The Minister for Justice (Cathy Jamieson):** I am sure that we all recognise the importance of helping prisoners to develop the skills that they need in order to find jobs when they leave prison. The Scottish Prison Service is working with several agencies to help to improve the quality and range of opportunities that are available to prisoners. The SPS works closely with Jobcentre Plus and, as part of its role, it records the employment status of prisoners. Last week, I formally opened the new hub facility at Edinburgh prison, where I saw for myself prisoners being given the chance to attend a range of courses that will provide them with relevant skills.

**Jim Mather:** What targets will be set so that we can monitor progress over time?

**Cathy Jamieson:** We will have to consider those issues in more detail. One of my concerns is that approximately 50 to 65 per cent of people who are currently in the prisoner population lack functional literacy and numeracy. Therefore, we must take account of the educational targets that are set for the Prison Service, as well as the other targets. As members will be aware, the Prison Service has undertaken to make a number of changes to ensure that, as well as vocational education in some of the more traditional trades, prisoners can also be given the opportunity to gain the communication skills and people skills that they will require if they are to move into the world of work. I will, of course, keep the member updated on progress.

**Mike Pringle (Edinburgh South) (LD):** Does the minister agree that it is for the police to decide operational matters in response to antisocial behaviour? Does she agree that it is absolutely

disgraceful for local councillors to accuse police of being soft on antisocial behaviour when the police are tackling it in the way that they feel is suitable? Should we trust the police or councillors?

**The Presiding Officer:** I think that you are one question ahead of us. I will come back to you in just a minute.

**Mike Pringle:** Sorry.

### Antisocial Behaviour

**7. Bruce Crawford (Mid Scotland and Fife) (SNP):** I thank the Presiding Officer for letting me get my question in before Mike Pringle's.

To ask the Scottish Executive what additional measures it intends to implement to address the causes of antisocial behaviour. (S2O-7148)

**The Deputy Minister for Justice (Hugh Henry):** I am not sure whether to answer Mike Pringle or Bruce Crawford.

The Scottish Executive is taking action to address both the symptoms and the causes of antisocial behaviour. As well as introducing new legislation and improving antisocial behaviour services, we are continuing our long-term investment to deal with the causes of antisocial behaviour through our programmes to tackle poverty and promote social inclusion.

**Bruce Crawford:** Has the minister had a chance to read the recent Joseph Rowntree Foundation report "Anti-social Behaviour Strategies: Finding a balance"? The report contains an interesting small paragraph, which states:

"In areas most beset by ASB, ways have to be found of countering the sense of powerlessness and accompanying entrenched pessimism among residents. There is a need to break the vicious circle whereby fears and expectations of ASB"

and

"lack of faith in the authorities' capacity to do anything ... reinforce each other."

What strategies might be introduced to break that vicious circle, which is a difficult issue that besets many communities in Scotland?

**Hugh Henry:** I have not read the report from which Bruce Crawford quoted, but I am sure that our officials will have done so. Over many years, successive Governments, as well as many local authorities, have tried to do exactly what that report suggests. In many communities in different parts of Scotland, initiative after initiative has tried to empower communities. I know that attempts to do so have certainly been made in some communities in Renfrewshire, where I live.

As well as attempting to tackle the immediate problems of antisocial behaviour and its impact, we recognise that, if such attempts are to be successful, we must also address the long-term issues by tackling problems of poverty—as this Administration, across its different departments, is attempting to do—and by looking at the fundamental health problems that beset many communities. Of course, we also need to examine the educational opportunities that are available to young people. That is why we have made the largest-ever investment in school building in this country, why we are investing so significantly in early years and why we have provided more teachers. By doing that, we hope that we will improve young people's education and, slowly but surely, their confidence.

Empowering and enabling people are the means through which we can give them the confidence to stand up and challenge and to take decisions for their own communities. The problem is very deep—it cannot be answered quickly in a response to a parliamentary question—but empowerment is important. The fundamental long-term strategy of the Administration is very much in accord with what Bruce Crawford has suggested.

**The Presiding Officer:** Now I call Mike Pringle.

**Mike Pringle (Edinburgh South) (LD):** I refer to the question that I asked just a few moments ago. Did the minister hear my question or does he want me to repeat it?

**The Presiding Officer:** You must repeat it.

**Mike Pringle:** Does the minister agree that it is for the police to decide operational matters in response to antisocial behaviour? Does he agree that it is disgraceful for local councillors to accuse police of being soft on antisocial behaviour when the police are tackling it in the way that they feel is suitable? Should we trust the police or councillors on this one?

**Hugh Henry:** That is a valid point. From some of the recent discussion about what has been happening on Beach Boulevard in Aberdeen, I know that the police are taking effective action and that that action is supported by the local community. I also know that some politicians—including councillors and members of the Scottish Parliament—have criticised the action that the police have taken in that respect. The police are doing their job, using the new powers that were given to them by the Scottish Parliament. We should support the police where they take steps to tackle antisocial behaviour. We should also hope that councillors will take their duties and responsibilities seriously and that they will ensure that officials in council departments play their part in ensuring that co-ordinated and integrated action has an effect on local communities.

**The Presiding Officer:** Question 8 has not been lodged.

### Skye Bridge Protesters

**9. John Farquhar Munro (Ross, Skye and Inverness West) (LD):** To ask the Scottish Executive whether the criminal convictions imposed on Skye bridge protesters for non-payment of tolls will be quashed. (S2O-7099)

**The Lord Advocate (Colin Boyd):** No action is proposed in relation to persons who have been prosecuted and convicted in a criminal court for non-payment of the Skye bridge tolls. The decision to end tolling in December 2004 did not reflect in any way on the legality of the tolling regime, which has been tested on many occasions in both civil and criminal courts.

**John Farquhar Munro:** I am sure that the Lord Advocate is aware that the convictions were imposed because the courts considered the toll charge to be a tax and that, as such, non-payment was a criminal offence. Subsequently, it has been determined that the toll charge was in fact a service charge, non-payment of which is a civil offence. In those circumstances, does the Lord Advocate agree that the criminal convictions are seriously flawed and that they should be quashed immediately?

**The Lord Advocate:** No, I do not accept that. The toll was imposed as a result of the toll order that flowed from the act of Parliament. Many challenges were made to the toll regime in the courts and all the decisions were upheld. Of course, if the courts were to change their mind, different considerations would apply. At the present time, however, there is no cause for me to interfere with the convictions that the courts have imposed.

**Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP):** I note that the Lord Advocate said "At the present time" and that the legality of the convictions has been tested on many occasions. However, he will be aware of the work that Robbie the Pict has carried out on the matter, with considerable legal scholarship—perhaps more than in the work of some of my learned friends. Does the Lord Advocate accept that the authority to levy the tolls rested on an assignation document that, as Robbie the Pict has pointed out, was never signed? Can the Lord Advocate state where that challenge was tested in the courts? If he cannot do so, will he say what remedy, route or other means can be taken to finish this unfinished business in Scotland?

**The Lord Advocate:** I cannot comment on Robbie the Pict's legal abilities. The point about assignations has been used to challenge the tolling regime in two cases. Robbie the Pict

appeared once in the criminal court, where Lord Sutherland found the tolling regime to be in order, and once—twice, in fact—in the civil court in the case *Robbie the Pict v Miller Civil Engineering Ltd* and others. The assignation statement is made under the Roads (Scotland) Act 1984 and the subordinate legislation that flows from the act. It is not an assignation of a contract, but a statutory statement as to who has the right to charge and collect tolls. Indeed, it precedes the contract and does not assign the rights under the contract.

### G8 Summit (Public Safety)

**10. Rosie Kane (Glasgow) (SSP):** To ask the Scottish Executive whether it considers that the security arrangements for the forthcoming G8 summit are sufficient to ensure public safety. (S2O-7170)

**The Minister for Justice (Cathy Jamieson):** We are committed to doing all that we can, working with other agencies, to help to ensure that the G8 summit is safe and secure. We are also committed to upholding the right to legitimate and peaceful protest in Scotland. Comprehensive plans have been put in place by the Scottish police forces to deal with any unlawful activity that is aimed at disrupting either legitimate public protest or the summit.

**Rosie Kane:** Is the minister aware that, when leaders from the world's wealthiest countries gather at Gleneagles, they will bring with them scores of military personnel, including about 2,000 armed marines from the United States of America? Will those marines and other such personnel be answerable in Scottish courts if they are responsible in any way for any injury or fatality on Scottish soil?

**Cathy Jamieson:** I am advised by my learned colleagues the Lord Advocate and the Solicitor General that the short answer is yes. However, I must say to Rosie Kane that I would prefer it if we talked about the positives of the event. We have a real opportunity to put Scotland on the world stage and, through the make poverty history march and a range of other activities, to show that Scotland cares passionately about what is happening in the developing nations. I hope that Rosie Kane and every other member will ensure that the images of Scotland that are transmitted throughout the world are of the caring side of Scotland and of what Scotland has to offer as a nation, rather than of disruption and disorder.

**Roseanna Cunningham (Perth) (SNP):** I reassure the minister that, notwithstanding the First Minister's comments today, Perth and Kinross Council has made no attempt whatever to pass the buck on decisions that it has made—it takes full responsibility for them. However, the police are also involved. The minister will have

seen the comments of the chief constable of Tayside police, which are widely reported in today's newspapers, that protesters will be "free to demonstrate along the perimeter fence".

Will the minister clarify, particularly for local people, who are at the sharp end, whether that is a departure from the previously understood position or a restatement of it?

**Cathy Jamieson:** As the police are responsible for ensuring safety and security around the site, it is for them to decide what the best possible route for policing is. I am not aware that there has been a departure from previous statements, although I am aware that a number of representations have been made to Perth and Kinross Council and that the council has been in regular contact with the Executive on a range of matters, particularly insurance for proposed marches.

**Roseanna Cunningham:** What about policing?

**Cathy Jamieson:** I appreciate that the member is particularly interested in policing, but the answers that she requires on that must come from the police, who have overall responsibility for ensuring the safety of those who attend the summit and everyone else around it.

**Phil Gallie (South of Scotland) (Con):** Does the minister agree that, in relation to the security that will surround the talks at Gleneagles, the costs of prevention of public anxiety are considerable? Does she feel, as I do, that it would be helpful if those who continually carp about the right to protest in this country and then break the law when they get the opportunity gave an undertaking to ensure that the law is not broken during the summit?

**Cathy Jamieson:** I hope that I outlined in response to earlier questions that I believe in the legitimate right to protest. As I have said before in the Parliament, I have taken up that right on many occasions in the past. The important point is that protesting is done within the law and that it takes account of the rights of other citizens in local communities. Throughout the process, we have been at pains to stress that there is no problem with people who wish to raise their concerns legitimately and exercise their rights responsibly. None of us will move away from that view.

## **Enterprise, Lifelong Learning and Transport**

### **Rail Services (Strathclyde)**

**1. Robert Brown (Glasgow) (LD):** To ask the Scottish Executive how it will ensure that rail services in the Strathclyde area are run effectively following implementation of the Transport (Scotland) Bill. (S2O-7090)

**The Minister for Transport (Nicol Stephen):** The devolution of rail powers and functions to the Executive following the Railways Act 2005, together with the unique role in the development, management and monitoring of rail that we propose for the new west of Scotland regional transport partnership, will ensure that rail services in Strathclyde are run more effectively than ever.

**Robert Brown:** The minister will be aware that Strathclyde Passenger Transport runs the biggest rail network outside London and that there are a number of concerns about the implications of the bill, not primarily for SPT itself but for its services. Dr Malcolm Reed, the director general of the Strathclyde Passenger Transport Executive, has been appointed to head transport Scotland. Will the minister ensure that the staffing up of the new agency will not result in SPT losing key and scarce expertise? Will he also ensure that the period leading into the new west of Scotland regional transport partnership will be as short as possible and will not lead to a planning blight on major capital projects such as the Glasgow airport rail link?

**Nicol Stephen:** The Glasgow airport rail link project and the other major public transport projects in the west of Scotland for which SPT is currently responsible will continue. SPT will work closely during the transition period with the new shadow body that develops, and I am determined that there should be continuity. SPT's wider responsibilities for the management, monitoring and development of the rail network will continue and transfer across to the new west of Scotland partnership. I would have thought that Robert Brown and other MSPs from the west of Scotland would take considerable comfort from the fact that the new agency is to be located in Glasgow, that it will have more than 200 staff and that the head of the new agency will be Malcolm Reed, who currently holds the lead role in SPT. All those factors taken together should give everyone considerable confidence in rail services for the west of Scotland.

**John Scott (Ayr) (Con):** The minister will recall my raising with him the possibility of a 20-minute rail service between Ayr and Glasgow. Has he, or have his officials, had any discussions with SPT or with First ScotRail, or with the new agency, about increasing the frequency of that service to every 20 minutes, as many of the trains on the service are currently overcrowded? If he has not held such discussions, will he consider doing so?

**Nicol Stephen:** The key issues in improving services to Ayrshire and the west of Scotland area to the south of Glasgow are the capacity of the line and its current condition. There will be a significant improvement in capacity arising from the Glasgow airport rail link, and everyone knows that a key

reason for that project is to improve the quality and frequency of services to Ayrshire. We have discussions on those issues regularly. There are other issues—on which questions have been lodged for today's question time—relating to those services. We are seriously examining other ways in which we could improve the line and we want to improve the quality and frequency of services right across the rail network.

### **United Nations Decade of Education for Sustainable Development**

**2. Robin Harper (Lothians) (Green):** I should declare an interest that might be relevant: I am rector designate of the University of Aberdeen, although I have not taken up the post yet.

To ask the Scottish Executive what advice it has received from the Scottish Higher Education Funding Council on how the tertiary education sector could make a meaningful contribution to the United Nations decade of education for sustainable development. (S2O-7176)

**The Deputy First Minister and Minister for Enterprise and Lifelong Learning (Mr Jim Wallace):** I received advice from the funding councils for further and higher education earlier this week. That advice outlines the councils' current activity in this area and their intention to take a number of measures to support universities and colleges in contributing to the UN decade of education for sustainable development.

**Robin Harper:** I congratulate the minister on having procured a contribution from SHEFC on the United Nations decade of education for sustainable development. Would he be able to make that advice available in full by placing a copy in the Scottish Parliament information centre? Furthermore, will the minister's letter of guidance to the new combined further and higher education funding council reflect the need for universities and colleges to take action in embedding sustainable development into the curriculum of all students, given the inclusion of sustainable development in the Further and Higher Education (Scotland) Act 2005 as a matter for the council to have regard to?

**Mr Wallace:** As I am sure Robin Harper knows, the advice that I received was in response to the guidance letter that I issued to both funding councils earlier this year, when I asked them to work with higher education institutions and colleges to make a meaningful contribution to the UN decade of education for sustainable development. That advice concerns work to influence and promote best practice in estates management and the development of capital projects, but it also concerns securing support for institutional developments in the curriculum and the establishment of a baseline for what is

happening in practice in the teaching of sustainable development across the FE and HE sectors. I have only just received the advice from the funding councils, which will have to be considered more fully. I will certainly consider its publication with an open mind. The letter of guidance to the merged funding councils will be a matter for my successor, who might or might not be in the chamber just now but who, I am sure, will note my comments in the *Official Report*.

### **People with a Learning Disability (Employment)**

**3. Jackie Baillie (Dumbarton) (Lab):** To ask the Scottish Executive what progress it is making in implementing "Working for a change?" to help people with a learning disability to access employment. (S2O-7101)

**The Deputy Minister for Enterprise and Lifelong Learning (Allan Wilson):** One of the recommendations of "Working for a change?" was for a programme of research to inform policy on the employment of people with learning disabilities. This week we published the report "Go for it!": Supporting people with learning disabilities and/or autistic spectrum disorder in employment", which highlights a number of ways that employment opportunities can be improved. We are also developing an employability framework, to bring together and drive forward the work that the Executive and the United Kingdom Government do to help disadvantaged people to move into employment. We hope to publish the framework later in the summer. The interests of people with learning disabilities have been represented in that work by Enable Scotland and the Scottish Consortium for Learning Disability.

**Jackie Baillie:** "Working for a change?" was completed in 2003 and made 10 recommendations about improving access to employment for people with learning disabilities, one of which charged ministers in the Scottish Executive Enterprise, Transport and Lifelong Learning Department with chairing a national steering group to push forward implementation. Although I am aware that the minister is developing an employability strategy, which might encompass some of the report's recommendations, I am keen that he should ensure that the recommendations are fully implemented. Will he give a commitment to do that?

**Allan Wilson:** I am pleased to give that commitment. We determined that the framework for employability that we are developing would apply to all client groups, rather than focus specifically on learning disabilities, so that it can be the most appropriate vehicle for influencing change. However, as we develop the framework

we will consider all the recommendations in "Working for a change?" and incorporate them into the framework so that it addresses the particular needs of people with learning disabilities.

**Elaine Smith (Coatbridge and Chryston) (Lab):** The minister mentioned autistic spectrum disorder. Is he aware that employment rates among people who have autism are particularly low and that only 6 per cent of such people are in full-time paid employment? Will he give more detail about how the work that he mentioned might promote employment opportunities for people with ASD in Scotland? Will he give a commitment to discuss the matter with the National Autistic Society Scotland, which has been researching the subject?

**Allan Wilson:** I would be pleased to discuss the employability framework with the National Autistic Society Scotland and any of our partners. We work with a range of organisations at national and local level to provide appropriate interventions to enable individuals, including those who are most excluded from the labour market, to develop their skills to get into work. The framework will tie into other work that the Executive is doing to ensure that the right arrangements are in place across the board to close the opportunity gap in employment.

### **New Businesses (Support)**

**4. Mike Rumbles (West Aberdeenshire and Kincardine) (LD):** To ask the Scottish Executive whether it will give assistance to new businesses established through the Scottish Enterprise and Highlands and Islands Enterprise networks, for example by abolishing business rates for the first 12 months of their existence. (S2O-7096)

**The Deputy First Minister and Minister for Enterprise and Lifelong Learning (Mr Jim Wallace):** Assistance for new and growing businesses in Scotland is provided largely by Scottish Enterprise, Highlands and Islands Enterprise and their network of local enterprise companies, which provide a wide range of business support through the business gateway in the Scottish Enterprise area and the LECs in the Highlands and Islands.

**Mike Rumbles:** Does the minister accept that the first 12 months of its existence is the most vulnerable time for a business? Does he agree that the measure that I propose would offer a practical means of helping business start-ups to survive?

**Mr Wallace:** I accept that the first 12 months after a business sets up are a challenging time, but we should not overlook the fact that challenges and opportunities arise in the first 12 months and beyond, which is why there is a wide range of measures to help not only new start-ups but

existing businesses to grow. In particular, as I am sure that Mr Rumbles is aware, the £1,000 business start-up grant has been available for just under a year and is aimed at encouraging more young people to set up in business. We also have the Scottish co-investment fund, which provides equity funding of up to £500,000. We also have an opportunity to consider the contribution of women in enterprise. In March, we launched a strategy that is aimed at encouraging more women to set up in business.

**Jim Mather (Highlands and Islands) (SNP):** I thank the minister for his answer, and Mike Rumbles for his interest in and support of new businesses north of the highland line. It is much appreciated.

What other steps does the minister propose to take to level the playing field on behalf of the Highlands and Islands—steps that will be of more universal benefit? Will those steps include more personal advocacy of fiscal autonomy?

**Mr Wallace:** The answer to the second question is no. Fiscal autonomy is just another name for independence, which would be a disaster for the Highlands and Islands, as it would be for all other parts of Scotland. Fiscal federalism might be worth a mention, but for the moment I will take up that idea on a party basis, rather than through the Executive.

Mike Rumbles's question related to both Scottish Enterprise and Highlands and Islands Enterprise. As Jim Mather knows, Highlands and Islands Enterprise has done sterling work in a number of areas on a number of occasions. In Inverness, there is a measure of success now that would have been unrecognisable when the Highlands and Islands Development Board was established back in 1964. That is a great tribute to those who work for Highlands and Islands Enterprise and the LECs. I will take the opportunity to make that point—on behalf, I am sure, of the whole Parliament—when I address the Highlands and Islands LEC network in Aviemore tomorrow.

**Murdo Fraser (Mid Scotland and Fife) (Con):** Between them, Scottish Enterprise and Highlands and Islands Enterprise spend something like £500 million a year, and there is precious little sign of that money having had a substantial positive impact on our growth rate. Does the Deputy First Minister believe that every penny of that money is being spent as effectively as it could be?

**Mr Wallace:** In every area of public expenditure, we always seek to ensure that we get the best value for money. Murdo Fraser will no doubt have noted the purchasing managers index report of the Royal Bank of Scotland, which was published earlier this week. The report showed that, in May, growth in private sector output was maintained for

the 23<sup>rd</sup> successive month; that the service sector reported its 24<sup>th</sup> successive month of expansion, largely because of strong growth in newer businesses; and that output in the manufacturing sector increased for the 23<sup>rd</sup> successive month. We have a higher rate of employment than any of the 25 countries in the European Union apart from Denmark. Since the creation of this Parliament, 150,000 Scots have entered employment. Unemployment is at its lowest for a generation.

I do not think that the enterprise networks will take the credit for all of that, but they have made an important contribution towards many of those impressive figures.

### Redundancies (Support)

**5. Mrs Mary Mulligan (Linlithgow) (Lab):** To ask the Scottish Executive what support it would expect Scottish Enterprise to offer local employers and employees when redundancy notices are issued. (S2O-7129)

**The Deputy Minister for Enterprise and Lifelong Learning (Allan Wilson):** In responding to large-scale redundancies, the Scottish Executive expects Scottish Enterprise to work with other local partners as part of the PACE—partnership action for continuing employment—framework. The support that is offered is tailored to the particular situation but includes advice to companies on improving business performance, and advice, support and guidance to employees on retraining and alternative employment opportunities. In smaller-scale redundancies it is for local partners to determine how best to deploy the support that they can offer.

**Mrs Mulligan:** The minister will be aware that ABP slaughterhouse in Bathgate closed recently. My previous experience of Scottish Enterprise, during the Motorola closure, was excellent. However, on this occasion, we were told that Scottish Enterprise Edinburgh and Lothian could not become involved as too few employees were affected. Can the minister reassure my constituents that their future employment prospects will be assisted whether they are one of 3,000 or one of 50?

**Allan Wilson:** I would like to give Mrs Mulligan that assurance. Her constituents should not have been given the advice that they were given at the time.

PACE was set up to address large-scale redundancies and the economic impact where such redundancies occur. However, I feel strongly that if a person is made unemployed, whether or not the rate of unemployment is at 3 per cent or less, that person is 100 per cent unemployed and should get the same treatment from the public agencies as anyone made unemployed by a large

enterprise. I will certainly look into the matter for the member and, if we require to review or revise the guidance that we provide to our partners in PACE in that regard, we will be pleased to do so.

### Glasgow Airport Rail Link

**6. Gordon Jackson (Glasgow Govan) (Lab):** To ask the Scottish Executive whether it will make a statement on the proposed direct rail link from Glasgow city centre to Glasgow airport. (S2O-7114)

**The Minister for Transport (Nicol Stephen):** I am pleased by the recent announcement by Strathclyde Passenger Transport that it intends to make available for public consultation the draft of the private bill on the Glasgow airport rail link over the summer. That is a significant step towards finalising the plans for the direct shuttle service to the airport.

**Gordon Jackson:** The minister will understand that in that part of the country there is often a cynicism about delay because we have been waiting for 15 years while the link has been discussed. I would like the minister at least to indicate that the Executive will make every effort and provide all necessary support to ensure that the link goes ahead as quickly as is possible within the normal constraints and procedures.

**Nicol Stephen:** I agree that that should happen. The public consultation that was carried out was highly encouraging. More than 1,600 formal responses were received and more than 80 per cent of respondents supported the rail link. The draft bill has been completed and SPT intends to introduce the bill in October. I have been in contact with SPT, which is in the driving seat on the project—although the Executive will provide significant funds for it—and it believes that the project is still on track for completion in 2008.

## Environmental Assessment (Scotland) Bill: Stage 1

**The Presiding Officer (Mr George Reid):** The next item of business is a debate on motion S2M-2774, in the name of Ross Finnie, on the general principles of the Environmental Assessment (Scotland) Bill.

14:57

**The Minister for Environment and Rural Development (Ross Finnie):** The bill, the principles of which we are debating, is a vital part of our modernising government agenda and it delivers a commitment in our partnership agreement. More than that, it puts Scotland in the vanguard of the fight to ensure that the environmental protection that is championed by the strategic environmental assessment principles is at the heart of public policy making.

The widespread consensus that has emerged in support of the bill is encouraging, and the recommendation by the Environment and Rural Development Committee that the general principles of the bill should be agreed to is heartening. The committee has produced a comprehensive and thoughtful report and I thank its members and its convener for their work. I also thank the many individuals and organisations that engaged whole-heartedly in our consultation exercises and the projects that have been associated with the bill; among them are the Convention of Scottish Local Authorities, the Scottish Environment Protection Agency, Scottish Natural Heritage and Historic Scotland.

In essence, the bill's principles are that there should be early consideration of the environmental effects of public sector strategies, plans and programmes and effective early public consultation. I make it clear that environmental assessment informs decision making, but does not dictate to it. Moreover, environmental assessment will mesh with current and future planning legislation and be integral to our sustainable development agenda.

The bill proposes to encompass—and to make a logical extension to—the current regulatory provisions. If our environmental protection approach is to be systematic, sensible and sustainable, it follows that it must be logical to go beyond the limited current provisions and to address all public sector strategies, plans and programmes that are likely to have significant environmental effects.

**Phil Gallie (South of Scotland) (Con):** Is it not the case that, as the minister suggests, we already have legislation in place that covers the

environmental aspects at which the bill is aimed? His party and other parties in the chamber constantly carp about additional regulation and red tape, particularly that which emanates from European legislation. Is this not a case of gold plating European regulations? Is the bill not simply putting an added cost on the environment?

**Ross Finnie:** No. Mr Gallie has misunderstood the principles of the bill. It is wholly illogical to say that the only plans and projects that should be subject to such scrutiny are those that derive from a regulatory framework. Later in my speech I will address the second issue that Mr Gallie raises, which is that of bureaucracy. We have set out plans and proposals to address that issue.

Previously, plans were not considered until it was too late—all plans with significant effects across all subjects. Strategic environmental assessment puts a focus on protecting and enhancing the environment and reducing the risk of unforeseen damage; it therefore allows us to anticipate the problems and to avoid the unnecessary public expenditure of having to remedy them at a later date.

I make no apology for being passionately committed to driving forward the principles in this legislative vehicle. Equally, my commitment to the values of the bill makes me aware—if I can address Mr Gallie—of how crucial it is to ensure that bureaucracy is kept to a minimum and that maximum support is provided to practitioners. I note that the committee shares my view and that it has raised concerns relating to those matters. I assure members that I am doing everything that I can and I hope in these few moments to be able to persuade them of that. To minimise bureaucracy, for example, and to avoid wasting time and resources on plans that have no or minimal environmental effects, the bill proposes a filter mechanism called pre-screening. I note that the committee believes that a published register of pre-screened cases would be valuable and I confirm my commitment to considering how best to give effect to that suggestion. On support, I have committed to producing comprehensive guidance and I note that the committee report welcomes that.

I note that the committee considers training to be vital. The Executive has already supported a number of training events, and has provided awareness seminars. In addition, we have commissioned unique environmental assessment templates, which will give practitioners practical guidance through the process. I share the view that the bill represents a major change in culture and practice and I will continue to support the change process as we go forward.

**Mr Mark Ruskell (Mid Scotland and Fife) (Green):** Will the minister acknowledge the crucial



role of the gateway in co-ordination and in ensuring that that culture shift can happen? How will he ensure that the gateway is reflected fully in the bill?

**Ross Finnie:** I am grateful to Mark Ruskell for taking me on to the very subject at the top of my next page, which reads:

"Yet another unique support initiative—the SEA Gateway".

The SEA gateway will provide general advice and a liaison point for the responsible authorities and the consultation authorities. In addition, although still at an embryonic stage, it already provides a degree of quality control through its monitoring of statutory timescales. Those measures are all administrative, and I concede that they are not provided for in the bill. Because of the concerns raised I want to make the reasons for that clear. If such initiatives are to provide the high quality of support desired by the Executive and, I might say, by the committee and others, it is important to set them up so that they can respond flexibly to emerging needs and develop in an appropriate and useful way. I have no wish to straightjacket those potentially powerful initiatives within a statutory framework; rather, I propose to allow them to evolve naturally over time.

The bill requires SEPA, SNH and Historic Scotland to be consulted at points on the environmental assessment process. Those bodies are referred to as the consultation authorities. Importantly, that ensures that there is a statutory advice framework for the responsible authorities that are carrying out assessments. It also functions as a quality control mechanism and allows those key environmental bodies an early opportunity to engage in the process. The consultation authorities clearly have the expertise to cover the bulk of the environmental issues to be considered. However, concern has been raised about how they would consider other issues, for example health or population. The responsible authorities have a duty under the bill to report across the full range of environmental receptors. If, in certain cases, the consultation authorities cannot cover all the issues adequately, it will be for the responsible authorities to engage with other data holders to address the full range. Obviously, such data holders will be approached only as necessary and it would be neither practical nor proportionate to try to legislate for every possible body that might be involved. Moreover, such a provision would make nonsense of the general desire for a bureaucratically light SEA regime.

Having said that, I acknowledge that it is important to have a robust framework for environmental data gathering. Therefore, I will ensure that guidance includes advice on assessing health issues in an environmental

context and that a list of recognised Scottish data sources across all issues is produced.

The bill does not apply to budgetary plans or to plans the sole purpose of which is to serve national defence or civil emergency. With regard to budgetary plans, it makes no sense to me to attempt to perform an SEA on a plan that sets out only expenditure headings. It would be far better to apply strategic environmental assessment to the strategic actions arising from budgetary plans when there are actual environmental effects that can be usefully assessed and from which assessments practical benefits can arise.

The SEA provisions will not apply to national defence plans or civil emergency plans. Of course, that does not mean that any particular authority is exempt—it applies just to those narrow categories of plans. The bill provides for public sector plans to be delivered by private sector companies. I will use a utility as an example. The plans, programmes and strategies arising from a regulatory, legislative or administrative requirement that are produced by a private utility company will come within the mischief of the bill. Any private, unregulated activity does not come within the mischief of the bill. In that way, we have ensured that such public plans do not escape the SEA provisions.

Finally, I know that there have been concerns about how compliance and environmental assessment practice will be monitored. Key measures include the provision that a plan qualifying for SEA shall not be adopted unless the SEA provisions have been applied. Moreover, Scottish ministers may direct that an SEA be performed, if appropriate. Those powers, backed by administrative measures such as the gateway and a long-term project assessing the operational aspects of strategic environmental assessment that is about to get underway will provide a robust quality assurance framework.

This bill is about three matters that are at the heart of the partnership agreement and our modernising government agenda: environmental protection; public participation; and, crucially, sustainable development. I urge Parliament to support the principles of the bill.

I move,

That the Parliament agrees to the general principles of the Environmental Assessment (Scotland) Bill.

15:08

**Rob Gibson (Highlands and Islands) (SNP):** The Scottish National Party welcomes the opportunity to put environmental considerations at the heart of government thinking but, like many others, we think that the bill is a first step and that it will inevitably be firmed up in the light of

experience. We want that first step to be a sure one and it is therefore essential that we arrive at a critical analysis of where we have now reached. At this first stage, we have an opportunity to see amendments coming forward. The committee has asked a near record number of questions of the ministers about the detail of how it is intended that the provisions of the bill will be carried out and we look forward to hearing further answers in the final speech this afternoon and, in due course, by letter.

We are in a position to speculate about some of the answers, and we must do that. At last, we are doing something that is ahead of the European Union directive and United Kingdom law, because we are looking at plans and strategies. That is what we would expect of a forward-looking country. It has to be said that, if an independent country in the EU were doing what we are doing, it would have to aim for the highest possible standard, which is the benchmark against which we would measure the activities that are going on at present.

**Ross Finnie:** I am grateful that the member has elevated the Executive's policy to such a high plane. However, perhaps he would explain why such thinking was not contained in any thoughts or speeches by members of his party.

**Rob Gibson:** The minister ought to recognise that when we scrutinise such matters in committee they include fairly dry matters of administration. If he would like me to raise the constitutional question at every meeting, I would be happy to do so. I doubt whether my committee colleagues would seek to raise it at any time. I will deal with the question of why we should look at the matter in that way later in my speech.

It is important for the Executive to be clear about where strategic environmental assessment will kick in. A question has been raised about the possible building of new nuclear power stations. Because that would be a United Kingdom initiative, it would fall not under the process of SEA in Scotland but under the UK process, which is not as detailed as ours—at least, that is what we are led to believe. We need clarity about where SEA will kick in in relation to such programmes, which are important to people.

Earlier environmental impact assessment practice has been built on, but the Executive must give a whole-hearted lead on the process that it is setting up. We are looking for answers on how the structures will be explained to people. We asked for a flow chart showing the relationship between SEA, sustainable development and sustainable appraisal, because that would allow us to see which part of the Executive will draw together the structures and disseminate information on them. Previous debates have shown that the Executive's fledgling sustainability initiatives do not yet have the political weight that they require.

**Phil Gallie:** Is it not the case that many of the issues that are addressed by the bill are currently dealt with at council level? Does the member agree that, in many ways, the bill removes powers from local authorities and gives an extra voice to quangos?

**Rob Gibson:** I do not think that the member has read the bill. He should ask Alex Johnstone to explain it to him in a darkened room.

**Alex Johnstone (North East Scotland) (Con):** I might agree with Phil Gallie.

**Rob Gibson:** We will wait and see.

We raised the issue of pre-screening. If the Executive is to exempt items from assessment, it must define "minimal effect". If a register is to be kept of the items that arise, we will need a clear definition. We await the minister's answer on that.

I turn to the gateway. Information and best practice must be co-ordinated—thankfully, the minister recognised that in his speech—and data deficiencies in the early stages should not prevent the carrying out of strategic environmental assessment. Information should be disseminated as widely as possible, but the minister should make the point that SEA can go ahead even before data is available because it seeks to influence the overall principles of projects rather than the detail of their implementation. The training and funding regime that the minister has adopted is to be welcomed—it is one of the strengths of the proposals.

The committee has had lengthy discussions about private companies that do public work. That is important to many people. Scottish and Southern Energy's proposed Beaully to Denny power line project is an example of the public work that will have to be dealt with under the processes. We believe that such projects will be included, and we welcome that. We also note that the Executive will have to do SEA on projects before it instructs Scottish Water to work on them.

I turn to the bill's weaknesses. There are questions about how the gateway will be run. We know that it will be monitored, but we should bear it in mind that within a year of community planning being set up the Executive removed the website and the task force. It is important for us to know what resources will be provided to the gateway in future, given that its role will change from initiation to monitoring. We would like some answers on that.

We face major challenges. In particular, I have mentioned details that concern the Ministry of Defence and nuclear decisions that are taken outside Scotland and over which we can exercise only planning controls and not SEA.

Environmental justice involves the question of the consultative bodies' expertise not only on

health and impacts on population, but on transboundary effects. What if acid rain was created and fell on Norway? Will Norway be allowed to have any say in our SEA processes? As an international partner and nation, Scotland would wish to try to involve other countries that our activities might affect. It is also interesting to note that the nordic countries have a network of SEA bodies that compares and builds up information to help better decisions to be made for SEA.

The SNP agrees with Elsa João, who has supported the bill and done much work to help us to understand it. She said that the bill

“could make a significant contribution towards better-informed public sector decision-making and consequently progress towards delivering sustainable development”.

The SNP wants the Scottish Executive to provide the clearest detail on how to move towards sustainable development. We consider strategic environmental assessment to be very much part of the process. We demand that yearly reports should be made by the gateway or the part of the Executive that processes SEA, so that the Environment and Rural Development Committee can scrutinise the work and so that Parliament can debate the post-adoption strategy. We should look for more answers to the questions now, at this early stage in the new measure's development.

15:16

**Alex Johnstone (North East Scotland) (Con):**

The bill has been introduced with the best intentions. Much legislation is proposed with extremely good intentions, but we can find difficulties in the detail that must be sorted out. Much in the bill is welcome, but in the time that is available to me, I will express some of my reservations.

The bill will revoke and replace the Environmental Assessment of Plans and Programmes (Scotland) Regulations 2004 (SSI 2004/258), which Parliament approved and which came into force on 20 July last year. The regulations gave effect to the European Parliament and Council directive on strategic environmental assessment and, as such, they fulfilled the Executive's requirement to conform to the directive. The process that the bill has undergone shows that several measures have been added but, first, I will go through the Environment and Rural Development Committee's stage 1 report.

On part 1 of the bill, considerable confusion was shown in the evidence about the extension of the definition of a responsible authority. The extension goes beyond the EU directive's requirements. The main concern was whether private bodies that exercise public functions would be required to

undertake a strategic environmental assessment. Some evidence suggested that the SEA process would be too costly for small and medium-sized businesses and would in effect discriminate against them. I support the committee's recommendation that the minister should clarify before stage 2 the expected SEA responsibilities of private bodies that perform public functions.

To an extent, there is confusion about which plans and programmes will be subject to SEA. Scottish Water highlighted the fact that undertaking environmental assessment at a strategic level would not relieve it of the obligation to conduct environmental impact assessments of some projects, which would result in great

“duplication of effort and greater expenditure than is necessary.”—[*Official Report, Environment and Rural Development Committee, 27 April 2005; c 1824.*]

I support the committee's request that the minister provide concrete illustrations of how SEA will work in practice and its recommendation that the minister should carefully produce guidance on the bill.

On the resource implications of extending the scope of SEAs beyond the current regulations, the bill's explanatory notes refer to research by the Babbie Group, which estimates that the annual cost of SEAs to the responsible authorities is likely to be between £7 million and £12.5 million per annum. I will give another example. In its evidence, the Confederation of British Industry Scotland stated to the committee that it was “very disappointed” that the EU directive would be extended. It thought that that was “at odds” with the Executive's

“public statements that the economy is its number one priority”

and stated:

“It is also counter to the commitments made to the business community by the UK Government that there would be no further ‘goldplating’ of EU legislation.”

**Ross Finnie:** By way of illustration, will the member imagine that such legislation existed and that proper environmental assessment had been required when two of Scotland's central airports were built? Rather than the proposition that he has just made, does he accept that the inevitable conclusion would have been that proper access and a proper public transport system would be an integral part of the system, which would have been a great boost to the economy?

**Alex Johnstone:** In some respects, the minister illustrates the problem. Facilities that have evolved over time have done so as budgets permit. The minister is now suggesting that if they were to be dealt with under the provisions of the bill that we are considering, there would be a significant cost impact at the outset in order to ensure that

everything is done at stage 1. We must accept that an evolutionary principle has led to many of the current public services.

Even Scottish Enterprise stated in evidence that the bill should not undermine economic growth. In its oral evidence, it said that its concern was based on the need to

“avoid adding to the process delays or excess bureaucracy that might slow down decision making.”—[*Official Report, Environment and Rural Development Committee, 27 April 2005; c 1833.*]

Serious concerns were also raised about the resource implications with regard to the skills that will be needed in the public sector to implement the bill.

Concerns about the monitoring process in part 3 have been raised. We hope that the Executive will review the monitoring process after a year to ensure that the nervousness and reservations that witnesses expressed were properly dealt with.

I will be brief about the SEA gateway. The administrative process could be a success, but it could be burdensome. It is not surprising that some consultation authorities supported the gateway and agreed that it might extend its responsibilities in a number of areas. The committee rightly wanted a more formal approach to it and guidance on its core functions.

**Richard Lochhead (North East Scotland) (SNP):** In the final minute of his speech, will the member have time to make a fleeting reference to the environment?

**Phil Gallie:** Or to fishery protection vessels.

**Alex Johnstone:** Concerns have also been raised about the high financial burden.

The Scottish Conservative party accepts that there is something desirable in the general principles of the bill, but we are concerned about the bill in practice. We accept that there is a need for a reasonable and unobtrusive amount of environmental assessment, but we think that the provisions under the current regulations are largely adequate to cover the requirements—they certainly cover the EU requirements. The Executive seems to be following the now familiar route of gold plating EU legislation while simultaneously using a sledgehammer to crack the proverbial nut.

The bill's provisions will impose another layer of unnecessary bureaucracy and will lead to enormous resource implications in respect of costs and skills. The bill's supporters argue that money will be saved in the long run as a result of saving damage to the environment. However, Scotland is not currently experiencing widespread environmental damage from our public bodies. By all means, the safety net should be put in to

address problems when they arise, but legislation should not be inflicted on public bodies that are carrying out their work effectively.

We are discussing the bill's general principles. The Conservatives believe that it is possible to argue that those general principles are being fulfilled by the action that was taken last year. Consequently, we believe that the provisions are worthy in principle, but that they are already covered by legislation and that the bill is unnecessary.

15:25

**Sarah Boyack (Edinburgh Central) (Lab):** Labour members warmly welcome the bill and the objective of having the public sector take proper account of the full environmental impact of all new strategies, programmes or plans when it is preparing them. We do so because at the moment we do not have an explicit, rigorous approach. It is not good enough to assert that policies are good for the environment, without evidence or proper consideration. It is not good enough to assume that policies are good for the environment. We need to be able to demonstrate the impact that they will have, to know how to deal with any negative impact and how to maximise positive benefits, and to think through the trade-offs that can be made.

We do not live in a world where we can happily box up different issues. The big issues that we consider will impact on one another. We must see strategic environmental assessment in the context of our overall objectives on sustainable development. If we are to deliver economic prosperity as our top priority, at the same time as delivering social justice and ensuring that our environment is protected, we must ensure that we join up thinking across government. That means that we must be much more coherent and systematic.

The bill was welcomed by the vast majority of people who gave evidence to the Environment and Rural Development Committee. The objections of those who were less keen on or not convinced by the bill were based partly on the belief that strategic environmental assessment is about giving primacy to the environment, which is not the case. It is about ensuring that we consider the environment and that it is at the top table with other issues and is part of the decision-making process. At times, it may be inconvenient if a policy is identified as having a detrimental impact on the environment, but surely it is far better for us to know that up front and to begin to deal with the problems than to brush them under the carpet and leave them until later, when repairing the damage will be much more difficult.

Strategic environmental assessment is also about transparency. People should be confident that decisions that are taken have been thought through and are rigorous. Hopefully, the bill will increase accountability. That is why Labour members really welcome it. If local authorities are to be allowed to screen out particular issues, plans, policies or strategies that they do not believe will have a major impact on the environment, it is entirely appropriate that those decisions should be registered up front. I welcome the comments that the minister made to the committee on that issue. The information should be publicly accessible, so that we can have the accountability and transparency that the bill potentially provides. We do not want to create a loophole that would allow responsible authorities to avoid SEA when it should be carried out. However, we must also ensure that the impact of SEA is not disproportionate. We should not insist that absolutely every project is considered, regardless of its impact.

If the bill is to be a success, the biggest issue will be to ensure that the people involved in implementing it take real ownership of the process and embrace it, rather than see it as a threat. For that reason, I was disappointed with some of Alex Ferguson's comments.

**Alex Johnstone:** He has not made them yet.

**Sarah Boyack:** I am sorry—I meant Alex Johnstone. I will have to grovel for that later. Both members are sitting at the top table.

Phil Gallie's comments suggested to me that he has not read the bill. All public authorities, rather than just local authorities, will be responsible for environmental assessment. That includes the Executive and quangos. The issue must be central to all public policy.

I disagree strongly with the comments that Alex Johnstone made about gold plating. The term is usually employed as a way of objecting to high environmental standards, but let us be clear about the aim of the bill: it is about taking better-quality decisions. The CBI sees it as detracting from attempts to make the economy our number 1 priority, but that is to consider the economy in isolation from its wider impact and without thinking about the global challenges that we face. How will we deliver economic prosperity in this country if we ignore the impact of climate change? We must think through decisions in the round. In particular, we must think through the opportunities that may arise. Assessing environmental impact will not be all about identifying problems. There will be some big opportunities for us to grasp.

Alex Johnstone's comments on the brilliant environment that we have in this country and the few environmental problems that we face betrayed

a very complacent attitude. There was much in his speech with which Labour members would take issue.

I will concentrate on how we make the legislation work. The SEA gateway is crucial. It is important because it will provide guidance on best practice, it will enable capacity building and it will be a source of monitoring to ensure that the bill is implemented effectively. The gateway will change over time, but committee members were convinced that we will need it for the long term. It must be flexible, but it will not enable the Scottish Executive to adopt a hands-off approach. The Executive will still need to be involved and it will still have to take an overview.

One of the most striking aspects of the evidence to the committee was the nervousness—a lack of confidence—about the ability of local authorities to cope with the bill. That was the message that we received from the Convention of Scottish Local Authorities, which was worried about timescales and resources. That contrasted with the evidence from academics and practitioners who, having considered the evidence and examined best practice from other countries, were confident that if there is effective management and ownership of the legislation, it could be highly successful. Committee members believe that the lessons learned after the introduction last year of the Environmental Assessment of Plans and Programmes (Scotland) Regulations 2004 give us a good platform for the future and enable us to move forward.

I hope that the Scottish Executive will take the lead in providing training to ensure that people take ownership of the issue. The minister's speech acknowledged the fact that training is required and some has already been carried out. Having heard the tone of the evidence that was given to the committee, I was struck by how far away the practitioners are from the aspirations of the bill. Much work requires to be done.

A combination of guidance and an initial top-down approach to let practitioners know what is in the bill and what it means for them is required. Engagement in a discussion about how resources can be directed effectively will go a long way towards making the bill effective. The Scottish Executive has a particular duty to lead by example and help people through the culture change.

I make a plea to the minister to continue to use scrutiny of the bill at stages 2 and 3 to focus on what the bill means in practice. My colleague Maureen Macmillan will pick up on points of confusion that have been raised with the committee about who does what at what level, particularly in relation to public sector projects, as more clarity is required. One issue is the interface between strategic environmental assessment and

environmental impact assessment. If we get that right, we will take decisions at the right level and avoid the kind of bureaucracy that Alex Johnstone is worried about.

There are issues about what the bill describes as “minimal” and “significant” environmental impacts. It would be helpful to have examples put in front of people to enable them to concentrate on what the real issues will be.

Many concerns exist. I hope that we can use parliamentary scrutiny positively and that the Executive will provide leadership to enable the bill to live up to its promise, which is to secure a better environmental outcome and a better quality of life for us all and to ensure that better decisions are made.

I will finish on a slightly controversial note. I suspect that we all agree that the bill should be passed, although we might debate some of the detail. However, I wonder how equipped the Parliament will be to monitor the implementation of the bill. I hope that members will not see it as being only the Environment and Rural Development Committee’s job to ensure that the bill is being implemented. That view is shared by my colleagues. The whole of the Parliament, as well as the whole of the Executive, must take ownership of implementation of the bill. I note that there are not as many members in the chamber as there would be for debates on other issues.

I am not saying that the Deputy Minister for Environment and Rural Development will be able to solve the problem in his summing-up. There are questions not only for the Executive and responsible authorities but for politicians in the chamber about the extent to which we think the bill will make a big impact. That is a challenge across the political parties. I notice that there are many empty rows of seats in the chamber, although not on Labour’s part as there are one or two Labour members here. There is an issue about the importance that members place on the implementation of the legislation. I hope that we get political action from all parties in the chamber and that, by the time that we get to stage 3, the Conservatives, in particular, will be a little bit more enthusiastic about the bill and the opportunities that it may bring.

15:34

**Mr Andrew Arbuckle (Mid Scotland and Fife) (LD):** The worst parts of the Environmental Assessment (Scotland) Bill and strategic environmental assessment are their names. I do not know whether the minister is to blame, but the bill’s name makes it sound like a turgid piece of European Union bureaucracy rather than an innovative and necessary piece of legislation that has emerged from the coalition.

I am pleased that the bill will place Scotland ahead of the game in looking after its environment. My local town of Newburgh, in Fife, recently completed the regeneration of a former factory site. The project cost lots of money, as there were clear-up costs involved in bringing the brownfield site back into public use. As the minister pointed out to Mr Gallie, if environmental assessments had been around when the factory was built, although those remedial costs would not have been eliminated, they would have been greatly reduced. The message is that a small bit of planning ahead can avoid costly and unnecessary clearing up.

In farming, there is a saying that one should live for today but farm for tomorrow. That basically means that, during our tenure of life, we should try not to degrade the environment but to cherish and enhance it—that message was meant to be directed towards the rural reactionaries on the Tory benches, but they have now vanished from the chamber. The rationale behind the environmental assessment requirement in the bill is the same. Through it, we will be doing our bit to ensure that future generations do not have to clean up after us. I hope that where we go with our legislation other countries may be encouraged to follow.

If that is the area of benefit, where are the downsides to bringing the bill into law? The Tories have highlighted in emotive and unfortunate terms the costs and how SEA will fit into the existing planning framework. Local authorities are concerned that the arrival of SEA will place another burden on their planning departments. The planning process will have another cog placed into its machinery, and local authorities will have to include SEA in the assessment of a strategy or plan as well as monitor any environmental impact that occurs during the development of the strategy or plan. The preparation of environmental reports is likely to be a significant undertaking for the planning departments of local authorities and other public bodies.

Currently, the bill calls for several public agencies to be consulted on environmental assessments. I would also like local knowledge to be brought into the process. Agencies such as SEPA, Historic Scotland and Scottish Natural Heritage may have the professional expertise and technical knowledge that will be required to comment on an SEA, but they do not have at their fingertips the local information that may influence an environmental assessment. It might be sensible to add community councils to the list of statutory consultees.

**Alex Johnstone:** Is that not an extension of the provisions in the bill that have caused so much fear and concern among those who have given evidence on the bill?

**Mr Arbuckle:** I agree with the minister that the consultation should not be widened out unnecessarily; however, I make a plea for local information and knowledge to be included in an environmental assessment to improve the quality of the assessment.

The arrival of strategic environmental assessments will bring complications and extra work for local authorities, so it is essential that the time limits for dealing with any plan or strategy do not stretch beyond the current limits. There is a particular issue concerning consistency in dealing with SEA applications, both within an individual responsible authority area and across normal barriers. It will have to be possible to move information from one area to another to achieve the goal of fairness and equality. In that context, I welcome the work of the gateway and believe that it is essential.

**Mr Ruskell:** Does the member agree that, as well as the need for a flexible gateway, there is a need for a gateway in the long term? There are concerns that, because the bill does not mention the gateway, we could be left with a similar situation to that which exists in community planning, whereby assistance is given for two years but then disappears.

**Mr Arbuckle:** Mr Ruskell is in danger of jumping ahead and presuming that the process will not work. I believe that there is sufficient guarantee in the system.

I also welcome pre-screening, which I believe is essential. If a strategy or plan has no knock-on effects on the environment, there will be no need for an environmental assessment.

I support the bill and look forward to its progress.

15:39

**Mr Mark Ruskell (Mid Scotland and Fife) (Green):** The Scottish Green Party warmly welcomes and supports the general principles of the Environmental Assessment (Scotland) Bill. Overall it will improve the status of environmental issues and decision making so that the eyes of policy makers become trained on the environment as well as on economic growth and social justice. If we are to deliver real progress in Scotland, it is vital to have regard to the impacts that the economists often drily dismiss as externalities. As we all know, those externalities will be paid off the hard way, by future generations who will pay through the nose for our legacy of bad decisions, including degraded environments, congested and unhealthy streets and a chaotic global climate.

I say to Mr Gallie—who has not even had the good grace to stay for the debate—that that is where the real economic burden lies and where

we will reduce our economic competitiveness. It seems as if the Tories want us to engage in a race to the bottom in environmental standards, which is fundamentalist and anti-progress.

We welcome the bill and the fact that it goes further than the European directive. Indeed, it has the potential to lead the way in Europe. I say the word “potential” because although the bill has good intentions of being an exemplar in Europe, there are key issues that the minister must consider at stage 2 and that the committee must resolve if the bill is to help us to make real progress in Scotland and Europe. The word “clarification” appears in almost every conclusion of the committee’s report and it is often next to the word “guidance”. I say to the minister that the bill is not yet clear.

For example, I thought that a potential plan for new nuclear power stations would be an obvious example of where SEA would pick up the need for scrutiny. However, I did not get a clear answer to the very simple question that I asked the minister in committee. Now, after several rounds of research, legal advice, written questions and answers, it appears that the UK white paper on energy, which spells out a free-market approach to the development of new nuclear power stations, would not be covered by UK or Scottish SEA legislation. One of the most fundamental decisions of our time is set to slip under the wire.

**Sarah Boyack:** Does the member not agree that when the committee got the answer to Richard Lochhead’s written question, it was extensive and absolutely clear about where the different environmental impact assessments would be carried out, and that it helped all of us in the chamber regardless of our view on the border?

**Mr Ruskell:** Indeed, but research further to that showed that the UK energy white paper would not be scrutinised under SEA, although it is what would ensure that nuclear power stations would be built, if there was going to be such a programme. The position is not yet clear. I thought that the issue would be an easy one to deal with, but apparently it is not.

**Ross Finnie:** Will the member give way?

**Mr Ruskell:** I need to move on.

There was even more confusion from private sector bodies regarding where strategic environmental assessment ends and environmental impact assessment begins. There was a lot of wriggling from energy companies and Scottish Water over whether they or some higher body would do the work of proofing the overall policy. It is vital that greater clarity is worked into the bill at stage 2.

We have also heard about the importance of an SEA gateway to co-ordinate the activities, to

provide advice and training, to act as an arbiter in the case of a dispute, and to monitor the overall quality of the assessment work. Other countries that have successfully implemented SEA have independent gateways, but there is no reference to any form of gateway in the bill. It is important that a gateway is defined in the bill. I agree that it must be flexible so that its role can develop over time, but it must also offer long-term stability to the roll-out of SEA. The balance is a difficult one to strike, but we must do so at stage 2.

Clarity is also required on pre-screening. I still fail to grasp the need for yet another level of consideration. However, if the minister is intent on keeping that provision, he should make it transparent, require a register of decisions, and give us firm definitions of terms such as "minimal" and "significant" effects. The last thing we want is for such definitions to be turned into weasel words by irresponsible authorities.

Another matter on which we need clarity is the exemptions under the bill. I agree with the minister that the bill should cover financial plans that come before a programme but not those that arise as a result of a plan or programme. However, the point is far from clear in the current drafting. Once again, more clarity is needed.

To be honest, the exemption for the Ministry of Defence generated more heat than light in the committee's discussions. Having considered the issue in some depth, I am clear that plans for national defence could be included in the scope of the bill. It is even likely that such a move would be welcomed by the MOD, given that it routinely applies strategic environmental assessment beyond the minimum requirements under the existing UK regulations. In fact, last month the Secretary of State for Defence, Dr John Reid, issued a new policy statement on environmental protection, in which he stated:

"I will invoke any powers given to me to disapply legislation only on grounds of national security and only when such action is essential to maintain operational capability."

That definition of what is in and what is out in relation to national defence seems to me to be a world away from the blanket exemption to scrutiny of defence activities that the bill gives.

**Ross Finnie:** Will the member give way?

**Mr Ruskell:** Hang on a minute.

Instead of the bill's approach, which seems to be based on the assumption that the MOD is too big and scary to deal with, we need a considered approach that recognises the MOD's own best practice.

**Ross Finnie:** I am rather surprised that one who has studied the bill with such great care has not

understood that the MOD as a body is not exempt under the bill. The only exemptions under the bill are for plans and programmes in relation to national defence or civil emergencies. The MOD as a body is not exempt from the bill. Therefore, if the Secretary of State for Defence chooses to apply SEA legislation to national defence plans, he may do so, but that would not mean that all other activities of the MOD would not be within the mischief of the bill.

**Mr Ruskell:** However, the bill will restrict those activities. For discussion at stage 2, we need a clearer definition from the minister about where national security will be of paramount interest such that the exemption will need to be applied. The matter is a drafting issue to which we can return, but we need a sensible debate on it.

I conclude on a note of caution. SEA reveals to us what the damage could be but, as Sarah Boyack and others have pointed out, politics determines what decisions are actually made. The M74 inquiry revealed what damage would be done but, so far, political road building has prevailed. SEA is a valuable tool in understanding what we plan to do in our world, but the responsibility still lies with politicians to make decisions that recognise that the health of people and the health of the environment are inseparable and inviolable.

15:48

**Maureen Macmillan (Highlands and Islands (Lab):** The Environmental Assessment (Scotland) Bill is one of a series of bills that have come before Parliament that put environmental considerations at the heart of government. I endorse all that my colleague Sarah Boyack has said in praise of the bill.

Like other bills that we have passed, the Environmental Assessment (Scotland) Bill goes beyond the bare bones of what is required by a European directive. I commend the Executive for that decision, but the fact that the bill goes beyond the directive seems to have created some confusion in the minds of the public and private bodies that might be expected to deliver strategic environmental assessment. I think that the minister acknowledged that in his speech. Therefore, I will play bad cop to Sarah Boyack's good cop. Forgive me if I niggle and carp; I am not simply looking for difficulties where none exists, as members from other parties have done.

Some of my points have been raised by other members, but my first point is about the need for clarity, as it is not clear precisely what is meant in certain sections of the bill. Section 2(1) gives a definition of "responsible authority" that applies as long as the plan that the authority is preparing falls within section 5(3) and is a plan that is covered by



the European directive. However, section 2(4) defines a smaller group of bodies that will be required to provide strategic environmental assessment for all their plans and programmes. I listened carefully to what the minister had to say, but what has not been explained properly yet is whether the provision includes private bodies that carry out public functions.

Highlands and Islands Enterprise, which is a public body that delivers much of its programmes through private companies, said in its evidence:

“we are unclear about how this type of work is covered, if the projects themselves are not covered by the EU directive.”

Scottish and Southern Energy plc posed the question of who would have responsibility for strategic environmental assessment of its transmission network and whether it would be the company or the Executive. Will the company fall within section 2(1) or section 5(4)?

In his evidence, the minister drew the distinction between a private company that conducts a regulated activity and a private company that pursues private and unregulated business. What about a private body that carries out a public function that is not a regulated public function? It is extremely important that the question is clarified, and I hope that that can be done well before stage 2.

There is uncertainty about whether and when a body will be a responsible body and which plans and programmes will be subject to strategic environmental assessment. Indeed, there is also uncertainty about whether the allocation of funds for a future programme will constitute a trigger for strategic environmental assessment. Will a distinction be made between allocating funding to a project, as the National Lottery does, and designing a project? Will it be possible for a body to avoid strategic environmental assessment by claiming that a strategy is nothing more than a budget line? The committee is concerned that the Executive's intention in excluding financial plans is not clear. We ask the minister to provide examples of financial plans that would require a strategic environmental assessment and those that would not.

Another area that requires the Executive to give detailed guidance and examples for the sake of clarity is the relationship between strategic environmental assessment and environmental impact assessment. There is much confusion about where one stops and the other begins. For example, Scottish Water said that it did not believe that it would be solely responsible for strategic environmental assessment; it believes that it will share that responsibility with the Executive and the regulator. It expressed concern about the relationship between strategic environmental

assessment and environmental impact assessment and, in particular, about the possible duplication of effort and, therefore, of cost. If Scottish Water is unsure about that, what is other public bodies' perception of the relationship between SEA and EIA?

That also raises the question of how prepared authorities will be for this major culture shift. Never before have local authorities had to environment-proof their plans at inception. The decision whether an SEA is required will need to be made at the very birth of a strategy—no matter the department from which it emanates—yet the necessary expertise to make that decision does not permeate all local authority departments. Although the assurances that the minister has given on resources are welcome, who will do the training? Sarah Boyack outlined the excellent suggestion that the committee made in that regard in our report. I, too, recommend it.

As Mark Ruskell said, it is inevitable that some concerns boil down to pure semantics. In the pre-screening process, judgments will have to be made about whether a strategy will have a “minimal” or “significant” effect on the environment. Again, we need definitions of those terms. More important, we need concrete examples of what those effects might be.

In considering part 2 of the bill, the committee considered the relationship between SEA and sustainability. Some concerns were expressed that SEA would give undue weight to the environmental impact of a plan to the detriment of socioeconomic needs. However, the policy memorandum makes it clear that that is not the Executive's intention and the committee wholeheartedly accepts that. Indeed, most of the evidence that we took supported that conclusion, with some witnesses suggesting that strategic environmental assessment would encourage better socioeconomic assessment. If I may, I will paraphrase something that the First Minister said in another context: environmental justice is very strongly linked to social justice.

As Alex Johnstone on the Conservative benches mentioned, the perception out there is that SEA might somehow be bad for business. The evidence from the Confederation of British Industry—and, to a lesser extent, from Scottish Enterprise—supported that perception. Members on the Labour benches do not agree with that interpretation, and I am sure that the minister does not agree with it either. We must get the message out to the wider community that sustainability makes good business sense, just as effecting a reduction in a business's energy needs to combat global warming does.

Although I heartily welcome the principles of the bill, I have left the minister a considerable list of

things to do before stage 2. I trust that he will oblige.

15:55

**John Scott (Ayr) (Con):** I welcome this stage 1 debate and the comprehensive report of the Environment and Rural Development Committee that informs it. By and large, I support the sentiments that are driving the bill on to the statute book, but I will add what I hope will be received as constructive criticism.

Everyone agrees that environmental impact assessment is a necessary part of the creation or development of any major project and a sensible part of the planning procedure. However, it appears that delivery of strategic environmental assessment is giving many people cause for concern. In particular, as paragraph 120 of the report notes, there is

“a significant degree of nervousness amongst responsible authorities about what it will actually mean for them, in terms of financial resources and ... staff capacity.”

The committee’s concerns appear to be shared by no less august bodies than Scottish Water and Scottish Enterprise. In evidence to the committee, Scottish Water pointed out that carrying out an SEA at strategic level would not relieve it of its obligation to carry out an environmental impact assessment on certain projects, which will result in great

“duplication of effort and greater expenditure than is necessary.”—[*Official Report, Environment and Rural Development Committee, 27 April 2005; c 1824.*]

**Mr Ruskell:** Does the member accept that conducting SEA at the more strategic level will make it a lot easier to conduct individual project-based EIAs and will therefore save time for organisations?

**John Scott:** No. Scottish Water has probably got it right; it will mean twice the work and twice the expense. On the other hand, Scottish Enterprise stated in written evidence that the bill should not undermine economic growth, and in oral evidence that its concerns are based on the need to

“avoid adding to the process delays or excess bureaucracy that might slow down decision making.”—[*Official Report, Environment and Rural Development Committee, 27 April 2005; c 1833.*]

In addition, Babtie Group Ltd has estimated that the annual cost to responsible authorities is likely to be between £7 million and £12.5 million per annum. The Finance Committee has also raised the likelihood of the bill’s having a financial impact on provisions under the forthcoming planning bill and existing planning systems.

Notwithstanding the enthusiastic promotion of

the bill by those who will not have to pay for it—namely, the Lib-Lab Executive—it appears that the bill has not exactly been met with universal proposal.

**Ross Finnie:** Never mind the Executive—all members and businesses pay tax, some of which is devoted to dealing with contaminated land. We cannot consider the issue in a one-sided way. Surely the member accepts that if we have decent environmental assessment and reduce the need for us to pay hand over fist in taxation to deal with contaminated land, for example, that will benefit business.

**John Scott:** I take the point, but businesses already pay enough taxes, and enough environmental checks are in place. No more checks are needed, because they will add to the cost.

The proposals go way beyond what is required to carry out the bill’s not-unreasonable objectives. As Rob Gibson pointed out, the bill goes way beyond the requirements of the European Union directive. In short, gold plating is the order of the day. As Alex Johnstone said, we are using a sledgehammer to crack a nut and, in so doing, we will burden responsible authorities—many of which are strapped for cash—with an additional tier of cost that they can ill afford.

**Rob Gibson:** Will the member give way?

**John Scott:** No. I must make progress.

Perhaps the minister should consider COSLA’s suggestion that, rather than adopt the measures wholesale, a pilot scheme could and should be tried to allow an evaluation of the likely impact on staff and budgets. COSLA’s caution on the subject is entirely reasonable, as Sarah Boyack pointed out, given that local authorities and council tax payers will have to foot the bill. Indeed, there is little point in passing cumbersome legislation if a sufficient number of planners are not available to carry out the assessments that will be required.

There is little point in imposing regulatory burdens on local authorities if those burdens mean that the authorities will have to cut other front-line services, such as those that relate to free personal care, which are already a casualty of budget shortfalls in South Ayrshire Council and elsewhere. Necessary legislation is one thing, but gratuitously burdensome, overzealous regulation and red tape are another. I note that other members have already expressed that view. Even Mark Ruskell is not entirely convinced of the merits of the bill.

**Mr Ruskell** *rose*—

**John Scott:** We will, of course, seek to amend the bill at stages 2 and 3, and Alex Johnstone will lodge amendments in due course. We do not

accept that the bill will save money in the long term by strategic consideration of environmental impacts, because that work is already being done perfectly well under the existing framework. We do not see a need to give the SEA gateway further powers and responsibilities in addition to the powers that have already been given to local authorities, SNH and SEPA, because that can only be a further brake on economic growth and development.

If the economy is, in fact, its much-stated number 1 priority for taking Scotland forward in this new century, I urge the Executive to consider carefully the negative impact that the bill will have on jobs in Scotland. As it is, jobs are being lost because of high business rates, excessive water charges and poor infrastructure. Today, I urge the Executive to take a step back before it inflicts another burden on businesses and business development in Scotland.

16:01

**Mr Alasdair Morrison (Western Isles) (Lab):** Before I turn to the substantive issues in the bill, I would like to make an observation. At decision time yesterday, Donald Gorrie made a valid observation when he commented on the little time that is given to some stage 3 debates but not to all. Today's business is a valid illustration of his point. Although I do not want to devalue any of the speeches that have been made across the parties in the chamber this afternoon, I am certain that the debate could have been conducted perfectly adequately in 60 minutes. However, decisions regarding time that is allocated to debates and the progress of legislation are not, thankfully, matters for members of the Environment and Rural Development Committee.

Ross Finnie was absolutely right to highlight the fact that the bill is a vital part of our modernising government agenda. We should also recognise where it places Scotland in the league table of environmental protection. We are, as the minister said, in the vanguard of championing environmental protection. That is an important observation and something about which we should rejoice. I particularly welcome Ross Finnie's assertion that environmental assessments will inform the decision-making process but not dictate to it.

I shall now introduce an element of discord by making an observation about the environmental assessments that are already required on the Lewis peatlands. The matter may not be directly related to the bill but, sadly, the peatlands in Lewis have now become economically sterile areas. Members who are familiar with the landscape of the Isle of Lewis will know that those peatlands are a not insignificant part of the island. I wish that we

could revisit issues surrounding the Lewis peatlands and those environmental assessments.

Among the concerns that were highlighted by witnesses to the committee was the matter of bureaucracy. That concern has been amplified by members today, so the minister's assurance that bureaucracy will be kept to a minimum is certainly important.

Sarah Boyack was right to state the importance of proving the environmental impact of our policies. She was absolutely right to maintain that there is no room for assumptions and that we must have a robust and properly accredited system to make those decisions and to define categorically the impact of potential policies.

Other members mentioned concerns that have been expressed by local authorities through COSLA during our evidence-taking sessions. There is no doubt that there is a need for clarity, but there is also a need for flexibility in approach and attitude, which will require support from the Executive during the process of change. Again, that will be provided by the gateway, where general advice will be available. The gateway will also be a liaison point for the responsible consultation authorities.

Maureen Macmillan raised an important point about issues of clarity in certain sections of the bill. I have every confidence that, during the legislative journey that the bill has now embarked on, those sections will be made clearer; it will become clearer to everyone exactly what they mean. I can cite the example of the Ministry of Defence in relation to the bill, which was clearly explained. A question was lodged by Richard Lochhead and the answer was understood by everyone, with the exception of the Green party and Mr Mark Ruskell, the committee's eminent deputy convener.

Other issues relating to resourcing and training have been mentioned by many members. Those issues were also raised in committee meetings as areas of concern. Maureen Macmillan said that she had left the minister with a list of things to do. As she said, I am sure that he will oblige. The bill is eminently sensible and worthy of our support.

16:05

**Rosie Kane (Glasgow) (SSP):** If we have learned anything during recent decades, it is that our environment is precious and fragile. There can no longer be excuses for allowing our environment or ecosystem to take a battering. We should all remember that we are part of the environment and ecosystem. Human beings are not separate from the environment; we are one with it. However, our footprint on the planet is often the darkest and most abusive and that is to our detriment, our shame and our danger.

Several years ago, the First Minister was photographed in his wellies and hard hat, standing in a landfill dump. He promised that the Scottish Parliament would deliver environmental justice, and so it should. The Scottish Parliament has the power to make the world that we live in safer, and to ensure that we, as custodians of the planet, leave it in a better state than it was in when we found it. Sadly, however, we have not done that and our environment is under attack. Often, we have not had the tools at our disposal to resist attacks on our environment, and the fall-out from that means that the people are excluded, local expertise is missing, and we pay the price by living with poison.

We must welcome a bill that will ensure that environmental assessment takes place and we should support any measure that backs up the First Minister's promise to deliver environmental justice. However, if there are holes in the bill, it might not be worth the recycled paper on which it is written. Concerns about the pre-screening provisions in section 7 have been well rehearsed, but I will highlight some of them. I am intrigued by section 7 and suspect that some of its provisions will allow people who want to cop out of their responsibilities to the community and the environment to do just that.

Everything that we do has an impact on the environment: in this chamber the paper that we use, the water that we drink and the light and sound system that we use all impact on the environment, as do the Holyrood building and the traffic that it attracts and displaces. When we work out what that impact is, we will be able to make sensible decisions about what is best for the environment, our health and the safety of our children in the long term. Any plan or proposal should be subject to environmental assessment. It is not rocket science and the more we do it the better we will get at it. Environmental assessment should be the norm; it should never be the exception to the rule.

However, I fear that private companies that throw up housing and other developments in and around our communities might use section 7 to find a way out of having to carry out environmental assessment. Let us face it: private companies generally put profits before people and the planet, and are more likely to seek short cuts and turn their backs on the environmental impact of their projects. Private companies build homes in the community in which I live that often have two car-parking spaces in bays below or near the building. Residents' cars soon fill up the bays and the streets soon fill up with cars. There are often three cars per family.

**The Deputy Minister for Environment and Rural Development (Lewis Macdonald):** Does Ms Kane accept that under existing legislation

such housing developments are required to undergo environmental impact assessment?

**Rosie Kane:** We want to ensure that that is and continues to be the case, but it has not always been the case. In Govanhill, the people were not heard and a development took place next to the McDonald's drive-through that had a detrimental impact on the community. When we legislate, we must ensure that the bill is clear and that people have access to it and can shape it. That is why the bill must ensure that planners must plan in favour of the environment. However, ambiguity around pre-screening could create loopholes, which must be avoided.

The bill does not mention private companies. We need to hear more about private finance initiative, public-private partnership and design, build, finance and operate projects. If a private company receives the gift of the opportunity to build a school or hospital, will the project be subject to environmental assessment across the board? Members should not forget that such companies are in business for long-term profit, so the environment is usually the last thing on their minds. Where in the bill is that matter addressed? Will the relationships between business, councils and the Executive give chancers the opportunity to smash and grab without being accountable to local people or the global environment? The devil is in the detail, but the bill has a shortage of detail on such concerns. I say to the minister that we cannot simply hope for a good deal here; we must have an absolute guarantee.

The members on the Tory benches who were griping about the cost of assessing environmental impacts should concern themselves with the cost of projects such as the M74 northern extension, which will have a negative impact on the environment and will cost well over £500 million.

We cannot allow the opportunities of the Environmental Assessment (Scotland) Bill to be lost because of a lack of clarity. I will welcome the bill as long as it has teeth—teeth that can protect our communities and teeth to bite those who would damage our communities. The Scottish Socialist Party broadly supports the bill, but only if we can be given three guarantees today. First, will the minister guarantee that private companies, private enterprise and private money will never be exempt from the environmental assessment process? Secondly, will the minister guarantee that pre-screening will happen in the full light of public accountability and be carried out by an independent and publicly accountable arbiter? Lastly, will the minister guarantee the removal of the nonsense of the Executive playing both poacher and gamekeeper in disputes? All disputes should be dealt with by an independent and publicly accountable arbiter. The minister should

put those teeth in the bill and show the communities of Scotland that he is truly committed to environmental protection.

16:11

**Karen Gillon (Clydesdale) (Lab):** This is not a bill that filled me with tremendous excitement at the beginning of the process, and I have to confess that I did not spend my time off sick watching the committee's deliberations. It is nonetheless an important bill.

I begin by thanking the committee's clerking team and the bill team, which have provided us with some very useful information. I especially thank the staff of the Scottish Parliament information centre, who have provided helpful briefings that have helped us all to understand the bill better.

I agree with my colleague Maureen Macmillan: a number of questions remain unanswered, so we will need clarification before stage 2.

Scotland is at an environmental crossroads; we have identified what we need to do, so all that is left for us is to get on with doing it. Recently, the Environment and Rural Development Committee published its report on its inquiry into climate change. Among the many recommendations in the report was one that identified the need for the Executive to champion a change in business culture so that Scotland can take advantage of huge opportunities to meet environmental targets. It is therefore somewhat disappointing that the Conservatives and their friends in big business have continued to bury their heads in the sand, rather than consider the opportunities that the bill might present.

**John Scott:** Will the member take an intervention?

**Karen Gillon:** Hang on—I will take an intervention in a minute.

For too long, communities such as the one that I represent have paid the price of businesses not being asked to address environmental concerns adequately, and the price of the impacts of work that those businesses undertake. It is no accident that there are a number of coal bings in my constituency. No one wants to take responsibility for them, and no one wants to take responsibility for removing them. Under the proposals in the bill, I hope that such situations will not be allowed to happen in any future industrial developments in constituencies such as mine.

**John Scott:** Does Karen Gillon consider that Scottish Water and Scottish Enterprise—which have also expressed concerns about the bill—fall into the category of private businesses?

**Karen Gillon:** What we need is a change of attitude. People have to begin to take such issues seriously, rather than continuing to pretend that they are not happening and that somebody else will pay for them somewhere along the line. It is about time businesses started to pick up the tab for the environmental damage that they have caused to far too many communities for the sake of profit. I seldom agree with Rosie Kane, but on this occasion I probably do.

There is no doubt that strategic environmental assessment is a forward-looking process that has been designed to guarantee that before certain strategic decisions are made, their environmental implications are taken into account. It will allow us to identify, predict and weigh up the environmental impacts of proposals and to find feasible alternatives to existing plans. We will be able to compare proposals to find out which are the most sympathetic to the environment.

That said, I have some concerns about the implementation of SEA. For example, I am worried that COSLA is not fully prepared for its introduction. As members would expect, the Environment and Rural Development Committee has discussed the bill and it was during those discussions that implementation and pilots came up. I was uneasy about the lack of work that local authorities had done to prepare their staff for the bill's introduction. Although we are in the middle of one of the biggest school-building programmes the country has seen, the evidence that the committee received suggests that local authority education departments, in particular, have done little to use the process to carry out any strategic environmental assessment of that major development programme.

In a local authority context, the bill is not just about planning departments, which are already engaged in the process. It is about staff throughout authorities taking responsibility for strategic environmental assessment. In that regard, I ask the minister what plans the Executive has to provide training to key staff in local authorities and other agencies so that they can go back and train their colleagues.

I welcome the pathfinder initiative, which is a step in the right direction, but I have a final question about consultees' ability to comment on human health and population issues, on which there could be a gap. More needs to be done in determining how best plan owners will be able to assess the impact of their plans in respect of human health and population matters.

I welcome the bill and hope that members will support it at stage 1. Although there will be room for significant amendment at stage 2 to provide further clarification, I think that, all in all, we are going in the right direction.

**The Deputy Presiding Officer (Murray Tosh):** We come to the closing speeches. At this stage, we are 13 minutes ahead of the clock.

16:17

**Nora Radcliffe (Gordon) (LD):** I say at the outset that the Liberal Democrats support the bill, which seeks to put environmental awareness at the heart of decision making. If I were to sum up the bill at this stage, I would say that it is trying to do the right thing in the right way and that it has wide support in principle.

No organisation that was planning any action would dream of doing so without examining the financial options and implications of that action. Organisations automatically review the personnel and social implications of any proposed action; if the bill succeeds, it will become just as automatic for them to give proper consideration to the environmental implications of a proposed course of action. Not evaluating the environmental cost of a proposal will become as unthinkable as not evaluating its monetary cost.

That SEA is the right way to go is sharply underlined by the mess that we make when we do not count the environmental costs of what we do. However, if we do not do the right thing in an inclusive and transparent way, the system will not work. The strong emphasis on consultation and involvement in the process is what will make SEA effective.

What came through in the evidence that the committee took was support for the principle of SEA, awareness of the need for buy-in and concerns about clarity, capacity and resources. Unlike John Scott, I consider that to be healthy. Respondents understand that the process will involve effort and they want to get the system right because they recognise the long-term benefit that will be delivered. John Scott appeared to miss the underlying support that exists for the proposed measures.

Organisations were unclear about which bodies would be required to undertake SEA, which of their activities would be included, how their staff would cope and whether the estimates on the financial implications were accurate.

**John Scott:** If there is such huge underlying support for the bill, why is it that the parts of the report that are highlighted are those that emphasise the caution and apprehension that bodies such as Scottish Water and Scottish Enterprise have expressed?

**Nora Radcliffe:** The reason is that those parts of the report relate to bits of the bill that we need to fix. The underlying support exists and we do not need to worry about that, but we have to get the

bill right to deliver what people want. That explains the concentration on those elements.

The committee felt that it might be helpful to have what one might describe as worked examples to clarify who needs to assess what and especially, as a number of people have said about the public-private interface, to clarify the interrelationships between strategic environmental assessment and environmental impact assessment, and to give clearer understanding of what the words "minimal" and "significant" will mean in practice.

A number of people pointed out that what will make the bill effective is a culture change that will need strong leadership from the Executive. One of the ways in which the committee envisaged that culture change being delivered was for the Executive to take responsibility for developing training packages that could be adapted to the requirements of other organisations. Although I welcome the provision of training and training materials referred to in the minister's speech, I agree with Sarah Boyack's comments, which were underlined by Karen Gillon and Maureen Macmillan, about the support that will be needed to implement the bill as we would like.

Rosie Kane passionately advocated across-the-board application of environmental impact assessment. However, if one tries to crack every nut, one is in danger of missing the real target. Many strategies, plans and programmes will have little or no impact on the environment so it is important that we target those that will have significant environmental impacts. The pre-screening and screening processes will be important in prioritising the plans, programmes and strategies that are to be assessed.

A register of any plans, policies and strategies that are screened out would serve three purposes. First, it would head off any attempts to evade strategic environmental assessment where it should be applied. The second purpose concerns transparency and the third is that such a register would give examples for comparison—a way of benchmarking that could be shared with and used by all bodies in the process.

A number of people have mentioned the gateway team that is to be based in the Scottish Executive, and how that team will be key to smooth operation of the whole process. I accept the minister's arguments about the need for flexibility and the capacity for evolution of that administrative team, but there is still a discussion to be had about whether it should be protected in the long term by being included in the bill. There will be a lot of discussion about that.

On resources, the pathfinder projects' progress over the summer should help our assessment of

the likely accuracy of the current cost estimates of strategic environmental assessments. Those should be used to revise estimates, if necessary, and it should be remembered that very often, one may spend to save and that getting environmental assessment right at strategic level will be to the benefit of everything that happens thereafter.

I totally agree with Sarah Boyack that this is all about better-quality decisions. That was underlined by Karen Gillon's example of some of the missed opportunities in the current school-building programme.

We talk about sustainable development that balances economic, social and environmental issues. Strategic environmental assessment will ensure that the third leg of that sustainable development stool is the same length as the other two. That can only be a good thing. The bill will be a good one. A lot of work is yet to be done on it, but I commend the principles of the bill to the Scottish Parliament.

16:24

**Alex Fergusson (Galloway and Upper Nithsdale) (Con):** I do not think that I will be able to take up the 20 minutes that might be available to me, but I will try to speak a little more slowly than usual in an effort to help out the Presiding Officer.

I am sorry to say to Sarah Boyack—and I got her name right—that if she was as disappointed as she said she was by Alex Johnstone's speech, I fear that I will be taken off her Christmas card list, if indeed I am on it. It is the duty of Opposition to hold Government to account. I am disappointed in members who have belittled our contributions when they said, as Mark Ruskell did, that we seek to drag down standards. I do not accept that. It is absolutely legitimate for us to draw attention to concerns that have been put to the committee and are still felt. Sarah Boyack herself mentioned the distance between the concerns of practitioners and the aspirations of those who are guiding the legislation. All that we seek to do is to highlight the perfectly legitimate concerns that have been raised not by big business, as Karen Gillon suggested, but by government agencies and bodies. I cannot accept that it is wrong of us to do so.

I have always been a firm believer in the motto, "If it ain't broke, don't fix it." It seems to me that we are in severe danger of trying to fix something that works reasonably well at the moment. My suspicions are heightened by an apparently throwaway line in the conclusion of the committee's report. Paragraph 119 says that the committee was struck by the fact that there was substantial support for the bill from witnesses

"with the exception of one or two witnesses raising concerns about the possible effect of additional, unnecessary regulation".

I find that rather worrying. In this day and age, surely we should take concerns about unnecessary regulation extremely seriously. However, the committee seems to have rather brushed aside those concerns.

**Christine May (Central Fife) (Lab):** Does the member recognise that another committee of this Parliament has been examining the issue of regulation—the need for it, the adequacy of it and some of the arguments about gold plating that relate to it? Does he accept that the fact that the Subordinate Legislation Committee is conscious of the matter that he raises demonstrates that the issue is being addressed?

**Alex Fergusson:** I hear what the member says and I recognise the work of the Subordinate Legislation Committee. However, I will explain why I have little faith in that work bearing fruit. The bill that we are discussing is being furthered by the department that despite, in the early days of the Scottish Parliament, establishing a committee to cut out unnecessary red tape and bureaucracy in the agriculture industry has presided over an inexorable rise in those same burdens to unprecedented levels. The Scottish Executive is not an Administration that is well known for minimising regulation. We should take extremely seriously any evidence from those who seek to warn us about even more of it.

To be fair, the committee's report notes that the bill has caused

"a significant degree of nervousness amongst responsible authorities about what it will actually mean for them, in terms of financial resources and other factors such as staff capacity."

In other words, the legislation will cost the responsible authorities a great deal of money—up to £12.5 million—that they do not have and will require work to be done by staff who currently do not exist.

No wonder that, as Alex Johnstone pointed out, CBI Scotland said that it was very disappointed that the EU directive was to be extended. It also said that it considered that the legislation was

"at odds with public statements that the economy is the Executive's number 1 priority"

and that it ran counter to commitments made by the UK Government to the business community that there would be no further gold plating of EU legislation. Despite the minister's reassurances in that regard, it is clear that the UK Government chose to ignore the Scottish Executive when it made that statement because, as all of Scotland is beginning to realise, this Labour-Liberal Democrat Administration is proving to be the master of all

gold plating, the champion of overregulation and the instigator of levels of state interference that threaten to control almost every facet of our daily lives.

No one disputes the principle of environmental protection or environmental assessment. However, when the delivery of that noble objective is turned into a charter for consultants, which is what this legislation is in danger of becoming, the proposals should be thoroughly overhauled and amended, which is what we will seek to do at stage 2.

The legislation starts, wrongly, with the assumption that almost all plans and programmes are inherently bad for and damaging to the environment. That is not the case and, rather than subjecting every responsible authority to this cumbersome and expensive procedure, we should be seeking to ensure environmental protection with the absolute minimum of Government interference.

As Maureen Macmillan pointed out, Scottish Water talked of duplication. Further, Scottish Enterprise warned of increasing process delays and a slow-down in decision making. Rosie Kane's speech showed accurately why such concerns are fully justified. COSLA recommended that there should be a pilot scheme to enable all the implications to be assessed. For once—uniquely, I think—I am in complete agreement with all those bodies at one and the same time. I am also in agreement with Highland Council.

**Ross Finnie:** Will the member take an intervention?

**Mr Ruskell:** Will the member take an intervention?

**Alex Fergusson:** I give way to the minister.

**Ross Finnie:** In my speech, I conceded the member's valid point that the issues of implementation must be rehearsed. However, does he accept that not one of the litany of persons who came before the committee was able to point to any positive framework that required them to consider the environmental impact of the plans and policies that they currently produce?

**The Deputy Presiding Officer:** There is time to take Mr Ruskell's intervention later if you wish, Mr Fergusson.

**Alex Fergusson:** Minister, I am sorry. Could I ask you to repeat your question? We have plenty of time.

**Ross Finnie:** I will try not to ask another question, Presiding Officer. We are craving your indulgence.

The member mentioned the litany of persons who gave evidence to the committee and he

pointed out, properly, that there may be difficulties and that explanation may be required in relation to implementation; I accepted that in my opening speech. However, can he name a single witness who pointed to any requirement for them to consider the strategic environmental impact of their current plans and policies?

**Alex Fergusson:** I entirely accept the minister's point, but it does not in any way remove the real concerns of not just big businesses but government agencies and small businesses about the impact of the legislation.

Does Mr Ruskell want to intervene?

**Mr Ruskell:** I did a while ago, but I will try to remember what I was going to say.

The member mentioned the lack of any pilot studies, but he should reflect on what Karen Gillon said. The pathfinder project, which involves local authorities and will run during the summer, will inform the development of SEA. That process is on-going, but people are implementing SEA and we have the experience from other countries. We know that the process is successful and that it saves businesses money. That must be a good thing.

**Alex Fergusson:** I hear what the member says, but it is COSLA, rather than me, that he needs to convince.

I mentioned Highland Council—that was so long ago that I have almost forgotten where I was. I agree with Highland Council's blunt statement that

"budget constraints will force Local Authorities to choose between delivering frontline services and meeting their statutory duty to SEA."

However, I do not think that that is a choice. A loaded gun is being pointed by the Executive at every responsible authority on which the legislation will impact. At stage 2, we must take the finger off the trigger.

I am afraid that I have come to the end, Presiding Officer.

**The Deputy Presiding Officer:** I call Richard Lochhead, who in theory has seven minutes but who may take slightly more.

**Alex Johnstone:** Oh, no.

16:32

**Richard Lochhead (North East Scotland) (SNP):** I sense the trepidation in the chamber, Presiding Officer.

For perhaps the first time in my political career, I agree with Alasdair Morrison. We must do something about the way in which we manage debating time in the chamber. I recall that, last month, two committee debates were squeezed



into two and a half hours. The debate on promoting Scotland worldwide, which was sponsored by the European and External Relations Committee, was given one hour and five minutes even though the report took a year and half to compile, the subject was quite controversial and there was high demand for speaking time. I ask the Presiding Officer and the business managers to take that comment back to the Parliamentary Bureau. Two hours is perhaps a little too long for a debate such as this, despite the excellent speeches that have been made.

We can all take pride in the fact that, during the first six years of the Parliament, we have discussed, debated and legislated on environmental matters many times. Many of those who fought for a long time for the Scottish Parliament did so because they believed that the best way of looking after Scotland's environment was to have our own Parliament here in Scotland. We argued that that would enable us to make decisions that were tailored to our needs and to look after our precious environment. In the past few years, we have made stringent attempts to mainstream environmental thinking and policy throughout all Government departments. In essence, that is what today's debate is about.

The European Union gets a lot of bad press, most of which is perfectly justified. One area in which the EU is successful, however, is in spurring nation states and countries such as Scotland into producing environmental legislation. The reality is that EU legislation led to the bill that we are discussing today. The EU has a bad image, but we must remind people in Scotland time and again that it has been in the driving seat of environmental legislation, which we generally support.

Alex Johnstone made a bizarre speech in which he appeared to say that the bill was unnecessary and damaging but that he would vote for it.

**Alex Johnstone** *indicated disagreement.*

**Richard Lochhead:** I think that that is what he said; he certainly voted for the committee's stage 1 report. If he is to vote on the bill, I suggest that he should show his true colours and vote against it. His position in the debate was pretty unclear. Some of his statements were bizarre. The bill is not about gold plating; if anything, it is about green plating—that is green with a small "g", in case Mark Ruskell becomes excited. The bill will mainstream environmental thinking.

**Alex Johnstone:** Gold plating occurs when, after European regulation has been agreed by all member states, one member state or part thereof chooses to implement that regulation in a way that adds additional costs to its economy and its people. The bill will do that. It will make elements

of our economy uncompetitive and will consequently cause difficulties for the country's economy. That is gold plating.

**Richard Lochhead:** The member's comments are unjustified. We are discussing environmental considerations being taken into account at the earliest possible stage of policy development.

During the committee's inquiry into climate change, we invited several ministers to give evidence at once on how they were climate change proofing Scottish Government policies. The ministers dissembled; they could not explain how they climate change proofed their policies. That concerns me, because climate change is a huge threat to Scotland and the planet. It is clear that ministers in the Scottish Government do not really take that into account when they decide policies on a range of issues.

**Lewis Macdonald:** Does the member accept, as an example, that the flood prevention schemes that local authorities propose are specifically and precisely required to take into account the impacts, and likely impacts, of climate change?

**Richard Lochhead:** I am glad that that is happening on some matters, but it is not happening on all matters. Housing policy provides a perfect example of an area in which no account is being taken in policy development of the impact on climate change.

We must remember that the public sector accounts for more than 50 per cent of gross domestic product in Scotland. That is why it is important for the Government and public bodies to lead on environmental policy. They have a huge influence on how we treat our environment, because their expenditure is enormous. Many members referred to culture change. The culture change must happen at the root of government, so that it can spread throughout Scotland.

As many members have said, the committee's stage 1 report describes many concerns, a lack of clarity and confusion about the bill and what it will mean when it is put into practice. As many members from different parties have said, it is important for the minister to produce as soon as possible clear illustrations of how the bill will be put into practice and what it will mean. For instance, when and how will strategic environmental assessment kick in? The confusion must be cleared up, not least for the many public bodies at the front line that will have to implement the bill.

The committee heard from Scottish Water, which said—as other members have mentioned—that it is not responsible for strategies or policies, but that it simply delivers strategies and policies that have been decided by the Scottish Government in Edinburgh. Scottish Water's role must be clarified.

Several members referred to the resource implications for public bodies. We on the committee—I speak as a committee member as well as for the SNP—heard about concern over likely costs for local government, demands on staff time and resources and lack of training. We welcome the minister's comment that training packages will be produced to help front-line staff to deal with assessments.

As other members and the stage 1 report said, we do not want the gateway to be short lived. We hope that it will be established more permanently, because we must ensure that the application of strategic environmental assessment is consistent. Best practice must be followed and different public bodies must not implement SEA in different ways. We must have a cast-iron result on the implications for the environment.

Several members referred to transparency. We must ensure that pre-screening reports, screening reports and all the other aspects are put into the public domain and that people can ask questions and find out information on every environmental assessment that public bodies have carried out.

Public participation is important with regard to the impact of strategies, plans and programmes on the environment. That is why it is good that the report states that the public's response to consultations on assessments must be taken into account by public bodies that are putting together strategies.

Finally—after seven and a half minutes—I want to refer to the issue of Scotland and the rest of the UK.

**Alex Johnstone:** Sarah Boyack referred to the written answer to Richard Lochhead's parliamentary question S2W-16669, and described it as a clarification of the minister's position on nuclear power stations. Does the member accept that the answer was a clarification, or is he still confused about what the minister meant?

**Richard Lochhead:** I am glad that the member raised that issue, as I was just coming to it. When the committee received the answer to the parliamentary question on the implications of strategic environmental assessment for the potential to build nuclear power stations in Scotland, I thought that it clarified matters. However, the Scottish Parliament information centre has confirmed that if the UK Government issued a white paper on energy policy that included proposals to build nuclear power stations in Scotland, the strategic environmental assessment would not apply. The people of Scotland would expect an assessment to be carried out of the environmental implications of any proposal to build a nuclear power station in

Scotland, as most people in Scotland would see the potential for nuclear power stations to be built here and the nuclear waste that would result from them to be a major threat to Scotland's environment. That is why clarity is needed.

That issue goes to the heart of the matter. UK plans, programmes and policies do not have to go through the process—only Scottish plans, programmes and policies do. We cannot even get a Scottish energy policy because we do not have a Scottish strategy, and only strategies can be subjected to assessments. Despite calls from parties, non-governmental organisations in Scotland and others, we do not yet have a Scottish energy strategy, so we cannot even put such a strategy through a strategic environmental assessment.

The bottom line is that all powers over Scotland's environment should lie with the Scottish Parliament, which could then conduct strategic environmental assessments on any issue—nuclear waste, nuclear power or whatever—that members think will impact on Scotland's environment, even the marine environment strategy that the minister is about to bring forward. Some 80 acts—many of which are reserved to London—cover Scotland's seas. How on earth can we propose a strategy in Scotland to protect Scotland's seas when powers over those seas are reserved to London? All those powers should be brought to Scotland. We could then properly pass laws such as the one that is proposed and assess the impact on the environment of all kinds of policies.

That said, we support the general principles of the bill at stage 1, as we must use the Parliament's limited powers to the best of our abilities. Once we obtain more powers, we can really protect Scotland's environment.

**The Deputy Presiding Officer:** I call Lewis Macdonald to wind up the debate. In theory, he has 16 minutes, but he does not have to use them all, as the bureau has agreed that a motion without notice can be accepted to advance decision time if necessary. However, he may use the full 16 minutes if he wishes to.

16:43

**The Deputy Minister for Environment and Rural Development (Lewis Macdonald):** I am as pleased as my colleagues are that I do not need to take all the time that is available. The evidence from this afternoon's debate suggests that I will not require to use up all the time.

The bill has attracted widespread support because it will assist in protecting Scotland's environment and will encourage public participation in doing so. [*Interruption.*]

**The Deputy Presiding Officer:** I must interrupt you, minister, because there is a lot of conversation in the chamber. I appreciate that members have arrived early for decision time, but they should listen to the conclusion of the debate.

**Lewis Macdonald:** The bill has attracted widespread support because it strikes the right balance between providing a robust framework for protecting the environment and keeping bureaucracy to a minimum and because of the range of support mechanisms that will be put in place to ensure effective delivery of its provisions.

There is broad support for the bill's general principles and its overall approach, but there are issues that members have asked us to respond to. Before I deal with those matters, I want to take issue with Alex Fergusson's claim that, like others, the Conservatives have simply raised particular concerns. In my view, there is a clear difference between the Tory approach to the bill and the constructive concerns that other members have expressed.

That takes me back to Alex Johnstone's opening speech. I thought that Richard Lochhead did not fully understand the import of that speech, which I interpreted in a much more negative way than even he did. Mr Johnstone argued that it was a good thing that development in the past just happened, without any strategic assessment of impacts on the environment having been made—not that he mentioned the environment much. It was put to Mr Johnstone that it might be better for us to put in place public transport access to airports before they were developed, instead of having to spend the money that is required to do so afterwards. Sadly, the Conservatives were not convinced of the wisdom and prudence of that approach.

**Alex Johnstone:** Does the minister accept that I was trying to argue that, when resources are finite, the additional costs of strategic environmental assessment could effectively prevent development from taking place? That is my concern about the bill. [*Interruption.*]

**The Deputy Presiding Officer:** Before the minister answers, I must again call for a reasonable level of concentration and attention.

**Lewis Macdonald:** Mr Johnstone's intervention further demonstrates that he is missing the point. The issue is the costs and benefits over the piece. If strategic environmental assessment is carried out first and properly, vastly more will be saved than the process of carrying out the assessment could possibly cost.

**John Scott:** I intervene in defence of my colleague's comments on airports, in particular. Glasgow airport, Edinburgh airport and Prestwick airport evolved in the 1930s, usually because of

the enthusiasm of people such as Lord James Douglas-Hamilton's predecessors and Group Captain McIntyre, and they were used during wartime. At the time, those airports were never likely to be subject to strategic assessment. The minister is speaking with the benefit of hindsight.

**Lewis Macdonald:** I am saying that we should subject all strategic plans and programmes to environmental assessment, precisely in order that we may have the benefit of foresight, may see what will happen and may take into account environmental impacts before we begin.

I thought that Alex Johnstone provided the best example of a laissez-faire, let-it-happen attitude until I heard Mr Scott's speech. John Scott appeared to take the view that our policy on environmental assessment should not be decided either in the Scottish Parliament or at Westminster, but should be driven only by European Union directives, and that we should do on the environment only what the European Union tells us to do. Richard Lochhead suggested that Europe has led on environmental matters and, although I do not want to detract from the contribution that it has made, I will say that Labour and Liberal Democrat members believe that we should build on what comes from Europe in order to address specific Scottish needs.

**John Scott:** I make it clear, for the avoidance of doubt, that I said that we should include in the bill the minimum amount of European legislation that is necessary, instead of gold plating it, which appears to be the minister's intention.

**Lewis Macdonald:** However, John Scott said in his speech that we needed to pilot what we are doing in order to assess the impact of strategic environmental assessment. He missed the point that the European Union directive that was put into regulations last summer requires strategic environmental assessment to be carried out of all plans that have come forward since then. The pathfinder project that has been described allows us to make an assessment now of what the bill's impact will be when its provisions are implemented.

Fourteen plans, programmes and strategies are subject to strategic environmental assessment at the moment. Ten are from local authorities, one is from the structure plan committee in the Clyde valley, one is from a national park authority, one is from Highlands and Islands Airports Ltd and one is from the Deer Commission for Scotland. All the assessments that are being carried out currently will precisely inform strategic environmental assessment in the future.

**Alex Johnstone:** So what is the bill for?

**Lewis Macdonald:** The point of the bill is that it extends the requirements to every plan,

programme and strategy that comes forward in the public sector. If Mr Johnstone pays more attention at future meetings of the Environment and Rural Development Committee, he will find a fuller answer to the question that he has just put to me.

Maureen Macmillan and others asked about the difference between strategic environmental assessment and environmental impact assessment. That is an important point. Strategic environmental assessment applies to strategies, plans and programmes. As I pointed out to Rosie Kane, environmental impact assessment applies to individual projects and schemes.

A number of members have referred to Scottish Water. Scottish Water exercises functions of a public character, so strategies, plans and programmes that it brings forward will be caught by the bill in the same way as those that are brought forward by other public bodies will be. That does not mean that every local scheme will be caught by the bill—those will be covered by EIAs, which already exist.

We have set out clear definitions of how the provisions will apply but, as has been said, we will ensure that greater clarification is provided where matters are still not clear to committee members. We will consider what further refinement of the provisions in the bill might be required and we will consider administrative support mechanisms. We will seek to respond to the committee's recommendations on a number of matters, in particular the need to enable responsible authorities and their staff to adopt the change of culture that is required in how they examine issues in order to implement the bill successfully.

We want to minimise bureaucracy and ensure that there is as light a touch as possible. Because of that, we have put in place pre-screening procedures, which will be carried out by the plan owner and will determine whether a plan or programme might have a significant environmental effect. We will not require strategic assessment of schemes that will not have a major environmental effect.

**Mr Ruskell:** Does the minister acknowledge that, to make pre-screening robust, it is necessary to define the terms "minimal" and "significant"? Otherwise, they will become weasel words.

**Lewis Macdonald:** I understand the point that the member makes. I think that most people would understand fairly clearly what "minimal" means and what "significant" means, but we will use the guidance to spell that out if that is required. For example, an effect on land that is of no particular environmental value is clearly different from an effect on land that has an identified and understood environmental value. In order to improve the transparency of the process, we will

consider the creation of a register of decisions that are made at the pre-screening stage, to make it clear when a project does not have to undergo strategic assessment. We will look to move to the scoping stage as quickly as possible when it is clear that an assessment will be required.

We want to use the gateway to help us to minimise bureaucracy and to implement SEA in a way that is helpful to those who are responsible for implementation. We want that to happen without the imposition of statutory or bureaucratic burdens. We want the gateway, as a body that is already working on the existing SEA proposals, to be able to carry out that function.

**Alex Johnstone:** Mr Arbuckle suggested that we should increase the number of statutory consultees and Rosie Kane suggested that, in the longer term, we should extend the provisions of the bill to the private sector. Does the minister feel that the bill is robust enough to prevent such progressive movement? Alternatively, does he take the view that the legislation ought to be adjusted over time to include such provisions?

**Lewis Macdonald:** The bill makes it clear that the consultation authorities are the Scottish ministers, SEPA and SNH. That is because those authorities—in the case of the Scottish ministers, through Historic Scotland—bring to the table the expertise on environmental matters that we believe is required. It is our intention to go forward on that basis.

As I have said, we are clear about what will be covered and what will require assessment. We are also clear about who will be involved in the assessment. We want to ensure that the bureaucratic burden on those involved is kept to a minimum, but we also want to ensure that practitioners are fully aware of the requirements that are placed on them.

The UK regulations on transboundary effects, which Rob Gibson and one or two other members mentioned, provide for consultation on such effects. The results of that consultation will be taken into account in the SEA of any Scottish plan that has transboundary effects. The same will apply at UK level.

**Richard Lochhead:** If the UK Government were to issue a white paper proposing to build a nuclear power station in Scotland, at what stage would the bill's provisions kick in?

**Lewis Macdonald:** If the UK Government produces a plan, programme or strategy that applies across the United Kingdom, the UK legislation will apply. If a plan, programme or strategy is produced that has effect only in Scotland, the Scottish legislation will apply. I hope that that important distinction was made clear earlier.

The bill will be good for the environment by providing environmental protection and helping us to tackle climate change. It will also strengthen public participation in public policy decision making. It will do all that on the basis of an effective balance between a light-touch regulatory regime and a robust enforcement and quality assurance framework. The bill is backed up by a dynamic package of support mechanisms that are designed to husband resources and to provide as much assistance as possible to all those people who are involved with the new requirements.

The principles of the bill are a key component in supporting our wider strategy of sustainable developments taking on board social, economic and environmental benefits along with greater public participation. I commend them to the Parliament.

## **Environmental Assessment (Scotland) Bill: Financial Resolution**

16:56

**The Presiding Officer (Mr George Reid):** The next item of business is consideration of a financial resolution. I ask Lewis Macdonald to move motion S2M-2894, on the financial resolution in respect of the Environmental Assessment (Scotland) Bill.

*Motion moved,*

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Environmental Assessment (Scotland) Bill, agrees to any increase in expenditure of a kind referred to in Rule 9.12.3(b)(iii) of the Parliament's Standing Orders arising in consequence of the Act.—[*Lewis Macdonald.*]

**The Presiding Officer:** The question on the motion will be put at decision time.

## Motion without Notice

16:56

**The Presiding Officer (Mr George Reid):** We are three and a half minutes ahead of time, so I am minded to take a motion without notice on behalf of the Parliamentary Bureau, under rule 11.2.4 of the standing orders, to bring decision time forward to now.

*Motion moved,*

That Decision Time on Thursday 16 June 2005 be taken at 4.56 pm.—[*Ms Margaret Curran.*]

*Motion agreed to.*

## Decision Time

16:56

**The Presiding Officer (Mr George Reid):** There are four questions to be put as a result of today's business. The first question is, that motion S2M-2775, in the name of Cathy Jamieson, on the general principles of the Management of Offenders etc (Scotland) Bill, be agreed to. Are we agreed?

**Members:** No.

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

**FOR**

Adam, Brian (Aberdeen North) (SNP)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baird, Shiona (North East Scotland) (Green)  
 Baker, Richard (North East Scotland) (Lab)  
 Ballance, Chris (South of Scotland) (Green)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Canavan, Dennis (Falkirk West) (Ind)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marlyn (North East Scotland) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Jackson, Gordon (Glasgow Govan) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lochhead, Richard (North East Scotland) (SNP)  
 Lyon, George (Argyll and Bute) (LD)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 MacDonald, Margo (Lothians) (Ind)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Mather, Jim (Highlands and Islands) (SNP)  
 Maxwell, Mr Stewart (West of Scotland) (SNP)  
 May, Christine (Central Fife) (Lab)

McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Robison, Shona (Dundee East) (SNP)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)  
 Scott, Eleanor (Highlands and Islands) (Green)  
 Scott, Tavish (Shetland) (LD)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Swinburne, John (Central Scotland) (SSCUP)  
 Swinney, Mr John (North Tayside) (SNP)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)  
 Wallace, Mr Jim (Orkney) (LD)  
 Watson, Mike (Glasgow Cathcart) (Lab)  
 Welsh, Mr Andrew (Angus) (SNP)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

#### AGAINST

Aitken, Bill (Glasgow) (Con)  
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)  
 Byrne, Ms Rosemary (South of Scotland) (SSP)  
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Johnstone, Alex (North East Scotland) (Con)  
 Kane, Rosie (Glasgow) (SSP)  
 Leckie, Carolyn (Central Scotland) (SSP)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 McLetchie, David (Edinburgh Pentlands) (Con)  
 Milne, Mrs Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Tosh, Murray (West of Scotland) (Con)

**The Presiding Officer:** The result of the division is: For 89, Against 17, Abstentions 0.

#### *Motion agreed to.*

That the Parliament agrees to the general principles of the Management of Offenders etc. (Scotland) Bill.

**The Presiding Officer:** The second question is, that motion S2M-2933, in the name of Tom McCabe, on the financial resolution in respect of the Management of Offenders etc (Scotland) Bill, be agreed to. Are we agreed?

**Members: No.**

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

#### FOR

Adam, Brian (Aberdeen North) (SNP)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baird, Shiona (North East Scotland) (Green)  
 Baker, Richard (North East Scotland) (Lab)  
 Ballance, Chris (South of Scotland) (Green)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Canavan, Dennis (Falkirk West) (Ind)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marilyn (North East Scotland) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Jackson, Gordon (Glasgow Govan) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lochhead, Richard (North East Scotland) (SNP)  
 Lyon, George (Argyll and Bute) (LD)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 MacDonald, Margo (Lothians) (Ind)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Mather, Jim (Highlands and Islands) (SNP)  
 Maxwell, Mr Stewart (West of Scotland) (SNP)  
 May, Christine (Central Fife) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)

Oldfather, Irene (Cunninghame South) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Robison, Shona (Dundee East) (SNP)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)  
 Scott, Eleanor (Highlands and Islands) (Green)  
 Scott, Tavish (Shetland) (LD)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Swinburne, John (Central Scotland) (SSCUP)  
 Swinney, Mr John (North Tayside) (SNP)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)  
 Wallace, Mr Jim (Orkney) (LD)  
 Watson, Mike (Glasgow Cathcart) (Lab)  
 Welsh, Mr Andrew (Angus) (SNP)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

**AGAINST**

Byrne, Ms Rosemary (South of Scotland) (SSP)  
 Kane, Rosie (Glasgow) (SSP)  
 Leckie, Carolyn (Central Scotland) (SSP)

**ABSTENTIONS**

Aitken, Bill (Glasgow) (Con)  
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)  
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Johnstone, Alex (North East Scotland) (Con)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 McLetchie, David (Edinburgh Pentlands) (Con)  
 Milne, Mrs Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Tosh, Murray (West of Scotland) (Con)

**The Presiding Officer:** The result of the division is: For 89, Against 3, Abstentions 14.

*Motion agreed to.*

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Management of Offenders etc. (Scotland) Bill, agrees—

(a) to the following expenditure out of the Scottish Consolidated Fund—

- (i) expenditure of the Scottish Administration in consequence of the Act; and
- (ii) increases attributable to the Act in the sums payable out of that Fund under any other enactment; and

(b) to any payment required to be made by virtue of the Act.

**The Presiding Officer:** The third question is, that motion S2M-2774, in the name of Ross Finnie, on the general principles of the

Environmental Assessment (Scotland) Bill, be agreed to. Are we agreed?

**Members: No.**

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

**FOR**

Adam, Brian (Aberdeen North) (SNP)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baird, Shiona (North East Scotland) (Green)  
 Baker, Richard (North East Scotland) (Lab)  
 Ballance, Chris (South of Scotland) (Green)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Byrne, Ms Rosemary (South of Scotland) (SSP)  
 Canavan, Dennis (Falkirk West) (Ind)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marlyn (North East Scotland) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Jackson, Gordon (Glasgow Govan) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Kane, Rosie (Glasgow) (SSP)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Leckie, Carolyn (Central Scotland) (SSP)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lochhead, Richard (North East Scotland) (SNP)  
 Lyon, George (Argyll and Bute) (LD)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 MacDonald, Margo (Lothians) (Ind)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Mather, Jim (Highlands and Islands) (SNP)  
 Maxwell, Mr Stewart (West of Scotland) (SNP)  
 May, Christine (Central Fife) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 McMahan, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Morgan, Alasdair (South of Scotland) (SNP)



Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Robison, Shona (Dundee East) (SNP)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)  
 Scott, Eleanor (Highlands and Islands) (Green)  
 Scott, Tavish (Shetland) (LD)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Swinburne, John (Central Scotland) (SSCUP)  
 Swinney, Mr John (North Tayside) (SNP)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)  
 Wallace, Mr Jim (Orkney) (LD)  
 Watson, Mike (Glasgow Cathcart) (Lab)  
 Welsh, Mr Andrew (Angus) (SNP)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

#### ABSTENTIONS

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

**The Presiding Officer:** The result of the division is: For 93, Against 0, Abstentions 15.

#### *Motion agreed to.*

That the Parliament agrees to the general principles of the Environmental Assessment (Scotland) Bill.

**The Presiding Officer:** The fourth and final question tonight is, that motion S2M-2894, in the name of Tom McCabe, on the financial resolution in respect of the Environmental Assessment (Scotland) Bill, be agreed to. Are we agreed?

**Members:** No.

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

#### FOR

Adam, Brian (Aberdeen North) (SNP)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)  
 Baillie, Jackie (Dumbarton) (Lab)

Baird, Shiona (North East Scotland) (Green)  
 Baker, Richard (North East Scotland) (Lab)  
 Ballance, Chris (South of Scotland) (Green)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Byrne, Ms Rosemary (South of Scotland) (SSP)  
 Canavan, Dennis (Falkirk West) (Ind)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marlyn (North East Scotland) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Jackson, Gordon (Glasgow Govan) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Kane, Rosie (Glasgow) (SSP)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Leckie, Carolyn (Central Scotland) (SSP)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lochhead, Richard (North East Scotland) (SNP)  
 Lyon, George (Argyll and Bute) (LD)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 MacDonald, Margo (Lothians) (Ind)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Mather, Jim (Highlands and Islands) (SNP)  
 Maxwell, Mr Stewart (West of Scotland) (SNP)  
 May, Christine (Central Fife) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 McMahan, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Robison, Shona (Dundee East) (SNP)

Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)  
 Scott, Eleanor (Highlands and Islands) (Green)  
 Scott, Tavish (Shetland) (LD)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Swinburne, John (Central Scotland) (SSCUP)  
 Swinney, Mr John (North Tayside) (SNP)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)  
 Wallace, Mr Jim (Orkney) (LD)  
 Watson, Mike (Glasgow Cathcart) (Lab)  
 Welsh, Mr Andrew (Angus) (SNP)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

#### ABSTENTIONS

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

**The Presiding Officer:** The result of the division is: For 93, Against 0, Abstentions 16.

#### *Motion agreed to.*

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Environmental Assessment (Scotland) Bill, agrees to any increase in expenditure of a kind referred to in Rule 9.12.3(b)(iii) of the Parliament's Standing Orders arising in consequence of the Act.

## Learning Disability Week

**The Deputy Presiding Officer (Trish Godman):** The final item of business is a members' business debate on motion S2M-2869, in the name of Jackie Baillie, on learning disability week. The debate will be concluded without any question being put.

#### *Motion debated,*

That the Parliament welcomes the 28th annual Learning Disability Week which takes place from 19 to 26 June 2005; notes that this week is important in raising the profile of people with learning disabilities and family carers; further notes that the theme, "It's Our Community Too", highlights the difficulties that people with learning disabilities face in becoming involved with their local communities; celebrates the work of ENABLE and the Scottish Consortium for Learning Disability in raising awareness, changing negative perceptions, encouraging participation and building respect; recognises that it is five years since the seminal policy document, *The same as you?*, was published by the Scottish Executive which aims to improve access to opportunities for people with learning disabilities; welcomes direct ministerial involvement in chairing the Implementation Group, and, while congratulating the Executive on the steps taken so far, encourages it to maintain the momentum for change in order to achieve full implementation of the recommendations.

17:03

**Jackie Baillie (Dumbarton) (Lab):** At the outset of the debate, I thank my colleagues for their support and welcome the number of members who have remained in the chamber at the end of what has been an incredibly long parliamentary week. More than half of all MSPs from all parties in the chamber have signed the motion before us this evening and many of them have gone out of their way to express regret that they are unable to attend this evening.

It is now five years since the publication of "The same as you? A review of services for people with learning disabilities" and I cannot praise the Scottish Executive highly enough for its development because it is a landmark policy framework for people with learning disabilities. For the first time, people with learning disabilities, their families, carers and service providers were given the opportunity to raise awareness of their needs at a national level and to identify ways to make their lives better. At the heart of "The same as you?" is the aim of ensuring that people with learning disabilities enjoy the same rights and opportunities as everyone else.

"The same as you?" made 29 recommendations that were to be implemented over a decade. It outlined the vision of flexible and responsive services based on the need of the individual person, and on developing such things as personal life plans, local area co-ordinators, direct payments, employment opportunities, and much

more besides. Much has been achieved but, equally, there is still much more to do. By having this debate, we have a chance to renew the momentum behind the challenge of bringing about full implementation of the report. Only by implementing all the recommendations will we be able to meet the needs and aspirations of people with learning disabilities.

Next week is learning disability week. The Scottish Consortium for Learning Disability will have a display in the garden lobby, which I encourage members to visit. The theme for the week—which will be “It’s Our Community Too”—seeks to highlight the barriers that prevent people with learning disabilities from playing their full part in the community. Whether those occur in shops, in the street or in accessing health care, education or employment, such stereotypes and ignorance prevent people from realising their potential and leading a normal life. The challenge for us as policy makers is not so much to help the individual to adapt to the community as to change the community and society to adapt to the individual.

The Executive rightly set up a national implementation group to take forward all the recommendations in “The same as you?” I welcome the importance that the Deputy Minister for Health and Community Care has attached to the issue by signalling that she will chair that group. I am sure that, like me, she is well aware of how important it is to monitor the success of changes and the consistency with which those are applied throughout Scotland. It is essential to assess clearly what is happening at the local level, as some people’s experiences do not match the expectations of high standards that the Parliament and Executive have.

The first recommendation in “The same as you?” was that each local authority and health board should draw up a partnership in practice agreement to give effect on the ground to the policies that were contained in the report. Some agreements are excellent and were drawn up with the involvement of those with learning disabilities, but we are not there yet for all agreements. I ask the minister to ensure that partnership in practice agreements throughout Scotland meet the same standard.

Local area co-ordinators are, in my view, the real agents for change on the ground. The local area co-ordinators whom I have seen in action in West Dunbartonshire and Helensburgh in my constituency provide direct support to people with learning disabilities and their families. That support is tailored to the needs of the individual.

The local area co-ordinator acts as an interface with what can at times be a confusing plethora of service providers. I have heard local area co-ordinators described as “the glue that makes the

system work” and as people’s “best friends”. They are very much on the side of the person with the learning disability and they offer a person-centred approach. They are also easily accessible, as people do not have to undergo a lengthy assessment process. Also, whereas previous support tended to look at people with learning disabilities as a homogeneous group, local area co-ordinators recognise that people with learning disabilities have differing needs.

As some areas of Scotland still do not have local area co-ordinators, many people miss out on the flexible and tailored support that they provide. Some people with learning disabilities are still outside the reach of public services. Of the estimated 120,000 people with learning disabilities in Scotland, just over 22,000 are known to local authorities. Evidently, a great deal still needs to be accomplished in raising awareness and in reaching out to those who are marginalised.

That need can be seen in the provision of health services to people with learning disabilities, too many of whom still find it difficult to access primary health care. At the moment, health care staff do not receive appropriate training in dealing with people with learning disabilities. Combined with the fact that such patients often find it difficult to describe their symptoms, that situation creates a gap in the level of care that is provided. We need to concentrate on training front-line staff so that we generate a greater understanding of the needs of people with learning disabilities. It is not rocket science. If we actively talked to people with learning disabilities about how services might be developed, we might find that relatively small changes can make a huge difference.

On that point about talking to people with learning disabilities, I commend the Enable publication “Making Consultation Work”, which was launched today by the Deputy Minister for Communities. That shows that consideration of learning disabilities is indeed mainstreamed across the Executive in a number of different policy areas.

Finally, there are still huge barriers in employment and we need to change attitudes towards people with learning disabilities. Raising awareness must be about building respect and challenging negative perceptions. The stereotypes that surround learning disabilities prevent people from gaining employment. We know that an estimated one in 20 adults with a learning disability is currently in paid employment. That is the tip of the iceberg, given that 65 per cent of adults with a learning disability tell us that they want to work. As members know, in many areas of Scotland, the labour market is so tight that vacancies remain unfilled. That suggests to me an opportunity.

Developing employment options must be a priority for the future. I welcome the commitment that Allan Wilson, the Deputy Minister for Enterprise and Lifelong Learning, made earlier this afternoon to ensure that all the recommendations in "Working for a change?" are fully implemented.

I believe that "The same as you?" provides a positive framework for action. So far, important steps have been taken to implement the recommendations. I urge the Deputy Minister for Health and Community Care to step up the pace. I know that she shares my view that we need to maintain a momentum over the next five years and beyond in order to make "The same as you?" a reality for everyone in Scotland who is affected by learning disabilities.

17:11

**Linda Fabiani (Central Scotland) (SNP):** I am grateful to Jackie Baillie for securing the motion for debate today. It gives me the opportunity to speak yet again, as I have done over the past few years, about a group of people who feel that they have been let down by the excellent practices that have come in with "The same as you?" I am referring to the elderly carers of adults with learning disabilities, some of whom are in the public gallery tonight. As I have said before and will continue to say, the very good intentions of "The same as you?" cannot be denied. However, there have been losers: the people who have cared for their sons and daughters for up to 50 years and who, to be honest, just need a break. Caring for young adults with learning disabilities is exhausting.

Although I could talk about the lack of respite care, which is an issue in this regard, the main issue for those people—I can talk about the Murray Owen carers group in East Kilbride—is straightforward. All that they want is for their sons and daughters to be settled and adequately looked after before their mums—it is usually women—and fathers, in some cases, can no longer look after them or, indeed, are just not there to look after them any more.

Quite a few carers say that help is provided only when things reach crisis point. I cannot think of a crisis that could be worse for someone with an intellectual disability than to come home from their learning centre one day and find that their mam is no longer there. That is often the time at which social work steps in, which means that the first real care is given when someone with an intellectual disability finds that the person who has looked after them all their life is no longer there. That is a terrible thing to put someone through. It is also a terrible thing that we have elderly carers, some of whom are over 80 and yet are looking after big hulking men and women who require physical help and mental stimulation.

There is a wonderful United Kingdom study, which was carried out by Jane Hubert and Sheila Hollins. It focuses on people with intellectual disabilities and their elderly carers and explores some basic questions about physical difficulties. The study asks how a woman of 75 can be expected to ensure that her son of 50 has a bath or a shower every morning before he goes to his learning centre. Every day is a brand new day. If the son does not want to get into the bath, how can his mother be expected to cope?

Mental health issues are also involved. Sheila Hollins says:

"Psychiatric disorders, including depression, affective disorders, anxiety disorders and delusional disorders, are more frequent among elderly people with intellectual disabilities than among the general elderly population."

We all know that people with some forms of learning disability age quicker and that dementia can set in at a much younger age. We are leaving elderly people to cope with that.

Many carers feel that they are not getting help from anywhere. For example, South Lanarkshire Council refused point-blank to meet me to discuss the issue, even though I wanted to represent about a dozen families. We must talk about the issues and get things sorted for those people. I am sure that Jeannette Kelly, who is vocal about the issue, will not mind my saying that we have been talking about the issue for three or four years, during which Jeannette has not got any younger; she is getting less able to cope all the time. Surely we can find a way of ensuring that Jeannette's daughter, Vanessa, is settled somewhere safe where she feels happy and content before Jeannette is no longer able to look after her.

I have asked ministers before to meet me on the issue, on which I have genuine concerns, but that has not happened. I ask the Deputy Minister for Health and Community Care to meet me and perhaps a couple of members of the Murray Owen carers group to discuss the issue.

17:16

**Karen Gillon (Clydesdale) (Lab):** I congratulate Jackie Baillie on securing this important debate and I concur with her comments. I apologise to members, but I will have to leave the debate early, as I need to return to my constituency for an engagement this evening. I welcome the debate and the opportunity that it gives us to discuss the many challenges that face people with learning disabilities in our constituencies. Clydesdale has a relatively good story to tell on the issue. In the past few years, organisations have worked hard, particularly the voluntary agencies and the council, to try to make things happen.

I acknowledge Jackie Baillie's comments about the many barriers and problems that people with

learning disabilities face in obtaining employment. I will highlight to the minister two projects in my constituency that offer a potential way forward. The first is the Coalyard tearoom in Larkhall, which is a hugely successful project. That is due, in no small part, to the enthusiasm and drive of the manager, Katie Ramage. The tearoom is far more than a tearoom—it is a real learning centre. There is a partnership between the tearoom, the local council social work department, Motherwell College and, most important, local employers. While young adults are at the tearoom, they learn a variety of skills; take Scottish vocational qualification courses and are certificated through Motherwell College; and carry out work placements in the tearoom and with local employers. The scheme has been hugely successful in securing long-term employment for the trainees. The minister should consider that project as a model. I am sure that she would be welcomed if she visited the tearoom—other ministers have done so in the past, so perhaps she will consider that.

In Carluke, a similar project has been opened recently. Cafe Kudos, which is run by the Scottish Society for Autism, tries to develop similar skills and works in partnership with the local authority and other employers to provide young adults with training opportunities. It is often daunting for people who have lived in a secure setting to move into the community and to develop skills in what can be a hostile environment.

I acknowledge Linda Fabiani's comments about older adults who care for adults with learning difficulties. I have found that people can become isolated in places such as Clydesdale, which is particularly rural, especially if they are the only adult with a learning disability in a small village.

During the past two years, we have been trying to develop a befriending project for adults with learning difficulties. I am delighted that the project has now achieved funding. The challenge now is to find the adults who will be the befrienders, because sometimes befriending is not the kind of sexy area that people want to engage in. That will be a challenge for the project, but it will be a worthwhile one, because the people who are driving the project and who have been involved in it are adults with learning disabilities themselves and their carers. I would like to mention a gentleman called Harry Smith in particular. At over 80, he is still committed to caring for both his elderly wife and his son, who has learning disabilities, and he has a great concern for his son's friends. Befriending is vital and we can see opportunities ahead of us. People with learning disabilities have much to offer our communities, much to give and much to share. It is vital that they are active members of our communities.

Projects such as the befriending project are good ways of moving that aim forward.

I commend the Executive for the work that it has done so far. However, the final line of Jackie Baillie's motion encourages the Executive "to maintain the momentum". That is important. We cannot rest on our laurels. Much has been done, but there is much more to do. I have given some practical examples of what has happened in my constituency and I am sure that other members can do likewise. I encourage the Executive to keep up the good work and perhaps to find a wee bit of extra money.

17:21

**Donald Gorrie (Central Scotland) (LD):** Jackie Baillie has introduced an important subject well. As I am sometimes critical of the Executive, it is nice to be able to commend it on "The same as you? A review of services for people with learning disabilities", which was a far-sighted and groundbreaking document in its time and which has led to a lot of good work.

I understand that there is hope that the Executive will commission new work to study better a subject that is still a bit vague: the number of people with learning disabilities who are still being looked after at home without the system knowing about them. The more we know about the problem, the greater our chance of curing it, so I hope that the Executive will find its way to commissioning more work in that area.

The question of support for carers is obviously fundamental for people with learning disabilities. It is important that we keep day centres open. I have been lobbied by people who are concerned that their local day centre is likely to close. Day centres perform a useful task. Short breaks and respite care are important for a whole range of people, but particularly for those who care within the family for people with learning disabilities. I do not fully understand the system, but it seems that the way in which the respite care is organised is not very helpful, in some cases, for parents who need a break. I hope that we can improve local systems.

We should give greater encouragement and support to organisations that provide supported living. Yesterday evening, we had a debate on Barnardo's Scotland, one of whose services is in that area. I have visited the Quarrier's homes, which I think do good work, and I have dealings with Enable Scotland, Turning Point Scotland and other organisations in that sphere. I hope that we can ensure continuing funding. There is still an issue of short-term and project funding for a lot of organisations. We should be able to guarantee that, as long as they do a decent job, they will

continue to be funded. I hope that we can achieve that.

One activity that is busily pursued in the Parliament is the work of the cross-party group on autistic spectrum disorder, which held a long and vigorous debate yesterday. It is quite clear how strongly some people hold the view that there is inadequate support for children who have autistic spectrum disorder. There is a strong lobby in the Parliament, and I hope that, between us, we can manage to get provision improved in that area.

Jackie Baillie talked a little about low expectations in relation to employment, but low expectations can also be a problem in colleges. Many people with learning difficulties have low expectations of themselves and other people often have low expectations of them, but people with learning disabilities often do much better than they and others think that they can do. Some time ago, people had low expectations of children at primary school in poorer areas, but we managed to crack that. We must pitch our expectations as high as possible.

There is pressure on voluntary organisations to keep costs down in order to win contracts with local authorities for the provision of residential and other services. As a result, the pay rates for people who provide such services are often shamefully low. We must rejig our financial arrangements. Competition and efficiency are all very well, but they should not be achieved at the expense of inadequate wages for the people who work at the front line.

We are debating an important area and I hope that we can improve services.

17:26

**Lord James Douglas-Hamilton (Lothians) (Con):** Donald Gorrie was right to say that respite care is tremendously important. I am glad that he highlighted autism, because I remember visiting the school in Alloa in which many autistic children were taught. If I remember correctly, I helped the school to secure a grant for a swimming pool, which the school thought would be a considerable help.

Karen Gillon talked about befrienders, who perform an invaluable role. I am glad to have at least one friend who is active in that capacity.

I warmly congratulate Jackie Baillie on her motion on the 28<sup>th</sup> annual learning disability week, which I strongly welcome. This year's theme—"It's our community too"—was carefully selected to enable people with learning disabilities to tell their communities about their right to be part of the community and to raise awareness of the issues that they and their families face. As Jackie Baillie

said, there are no authoritative figures on the number of children and adults with learning disabilities, but it is estimated that about 120,000 people in Scotland have a learning disability that is mild, moderate, profound or multiple.

I commend the hard work and dedication of the Scottish Consortium for Learning Disability and Enable, whose services are of vital importance to people with learning disabilities. Both organisations work extremely hard for and with people with learning disabilities and their families and carers to provide support, guidance, advice and information through the many services that they offer.

In May 2000, the Scottish Executive published the report "The same as you?" after listening to people with learning disabilities, their families, carers and the people who organise and provide services for them. As Jackie Baillie said authoritatively, the report made 29 recommendations, which will make a difference to the lives of people with learning disabilities. The report also emphasised the importance of good will and the need for charitable organisations such as the Scottish Consortium for Learning Disability and Enable to work alongside the Executive to ensure that the recommendations are implemented. The report was important and the action that has been taken so far is extremely welcome. Like Karen Gillon, I think that Jackie Baillie is right to call for momentum to be maintained. We hope that the Executive will continue to work closely with organisations such as the Scottish Consortium for Learning Disability and Enable, as well as with individuals and professionals, to ensure that the recommendations are fully implemented.

The needs of people with learning disabilities should be at the forefront of our minds. It is the mark of a civilised society to give top priority to people who, through no fault of their own, must come to terms with learning difficulties or disability, great and small. It is essential that we respond to those people's needs and aspirations. Above all, we must give them hope and fulfilment. I support the motion.

17:29

**Christine Grahame (South of Scotland) (SNP):** I, too, add my congratulations to Jackie Baillie—not just on her motion but on her persistence in parliamentary questions on these issues. I also want to thank Enable Scotland for a very full briefing for this debate.

Recently, when I was visiting sheltered housing on parliamentary business, I met an elderly gentleman who told me that earlier in his life he had been kept in an institution for 32 years. That

had been his life, before he got a job and moved on. Thank goodness that, to some extent, the days have gone when such things could happen. However, I sometimes wonder how many of the people who sleep rough on the streets have fallen through care nets. They may have learning disabilities and have no one to take up their cause.

The briefing from Enable raises several issues on which I would like to focus. We have already heard that only one in every five people with learning disabilities has been identified by local authorities. There is clearly a huge gap and we have to find the people who are not being given any assistance.

Enable points out that, of the people with learning disabilities who attend further education, 54 per cent attend for only one day or less each week, and only 17 per cent attend for more than three days. That seems to be not just a case of having low expectations of people, but a case of tokenism. We should be truly giving people the opportunity to develop and to fulfil their potential.

Enable also refers to direct payments. I have spoken about direct payments before; they are a wonderful way of allowing people to have some control over their life. They allow people to decide who will care for them and how they will be paid. I do not know whether the issue is part of the minister's brief, but I understand that there will be changes to Direct Payments Scotland. At the moment, there is a network of support service providers for people who use the system. The network, which covers all of Scotland, shares good practice and encourages people to take up direct payments. I think that a little bit of a battle is going on between Direct Payments Scotland and local authorities. Local authorities' noses are a bit out of joint because people now receive payments directly. Local authorities have not been good at helping people to get direct payments.

Enable's briefing says that, in March 2004, 912 people in Scotland were receiving direct payments. Of that total, only 135 were people with learning disabilities—which is only 0.6 per cent of all the people with learning disabilities who are known to local authorities. That is a pretty appalling figure. In building people's confidence, there is nothing better than letting them decide for themselves what they get, rather than simply telling them what they get.

Jackie Baillie spoke about health. A fatal accident inquiry into the death in 2000 of a man with a learning disability led to several recommendations, including having specialist learning disability nurses in general hospitals; offering training in learning disabilities to hospital staff; and providing advocacy services. All of us can feel overwhelmed when trying to explain an emergency in a hospital; I ask members to

imagine how confused and lacking in confidence a person with a learning disability might become.

Five years after that inquiry, the implementation of the recommendations has been very patchy. I understand that many health boards have still not produced comprehensive and timetabled action plans. Producing such plans does not seem a terribly difficult thing to do—a point that links to what Jackie Baillie said about general practitioners and primary care. I suspect that there is a huge gap there as well.

I commend the Scottish Executive for what has been done so far, but some pretty practical things could be done right now to improve people's circumstances. I would also like to know how we can identify all the people with learning disabilities who have yet to be identified as such.

17:33

**Eleanor Scott (Highlands and Islands) (Green):** I am very happy to take part in this debate on a serious and important issue. I want to focus on two aspects, both of which relate to handovers. The first is the handover from children's services to adults' services; the second is the transition when a person leaves home or the place where they have been staying and moves into their own housing tenancy. However, I will not say much about the latter because I suspect that Fergus Ewing will have something to say about it, too.

As a former community paediatrician, I do not feel that we do too badly for children with learning disabilities. That will sound terribly complacent, but I do not mean it to—I know that there are never enough services. However, the services exist. Even if the number of services is not sufficient, we know what the services should be. A pre-school child will get home-visiting teaching and speech and language therapy and occupational therapy. There are never enough of those services, but they are there and we know that they should be there.

When the child goes to school, there will never be enough after-school provision or holiday play schemes. However, we know that they should exist and that schools will support them. When the child's needs are assessed, many other support services will also be drawn in, including—I hope—respite care services. Children can usually stay in school until they are 19, by which time they are no longer children. That is followed by a major transition.

I used to be the school doctor for a wonderful school in Dingwall that was called St Clement's School, which took children with severe to profound learning disabilities from nursery age right through to the age of 19 and gave them a

range of education that went from toilet training through to the opportunity to do Scottish Vocational Education Council modules and to take part in independent travel. Each child's special needs were very different and they each had markedly different capacities, but the environment in St Clement's allowed them to fulfil their potential. The school had highly supportive and experienced staff who could use Makaton with children who did not communicate well verbally. That goes back to what Christine Grahame said about how important it is to be able to communicate with people who have learning disabilities. How many members can do Makaton?

I have seen parents who were in tears when it came to the handover of their child from St Clement's to adult services because it was the equivalent of having the support rug pulled from under them. Many of the personnel with whom they had engaged, on whose shoulders they had cried, by whom they had been helped and whom they, in turn, had advised were to change. Such change can coincide with the transition from children's to adult services in the health service. For example, a young person who attends an epilepsy clinic may have to change to a group of nurses and doctors whom they do not know. The transition stage is a stressful and difficult time.

It is often the case that although many services are available for children, far fewer are available for adults. Although some of the young people whom I knew would go to college or find residential placements or employment when they left school, others might get just two days a week at the local adult training centre and would have to occupy themselves for the rest of the time, when they had been used to being at school full-time. Such a situation is simply not good enough because it does not allow people to realise their potential.

I want to give an honourable mention to the not-for-profit groups that work in communities, which have a good record of employing people with learning disabilities. Campbeltown Wastewatchers combines my passion for recycling with my passion for good employment practice. It employs many people with learning disabilities, who do really useful work for the community and the planet. The company deserves a big pat on the back for that.

I will mention briefly—because I suspect that another member will discuss it—the matter of people getting their own tenancies, which affects people who are in institutions and young adults who are at home, but who want to move out. I knew a young girl who had severe learning disabilities, suffered from epilepsy and other medical problems and had very challenging behaviour. When she was eventually assessed, it

was decided that she needed her own tenancy. The tenancy was set up and her funding was used to pay for access to the house in question, but she was never able to move into it from the home that was struggling to look after her because of a lack of staff. There are big issues to do with providing the right support.

There are still people who have not been moved out of New Craigs hospital in Inverness. I get many letters from people in the Highlands who have learning disabilities and who have their own tenancies, but who are concerned about the people who remain in New Craigs. That says a great deal about the warmth and supportiveness of people who have learning disabilities, who think about each other and not just themselves. The money seems to have run out and although the people who were moved out initially—who were probably those whose needs were easier to meet—are now in tenancies, others are still waiting. I echo what Karen Gillon said; the Executive needs to provide a bit more money to support those people.

17:38

**Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP):** I congratulate Jackie Baillie on all her hard work.

I will allude to Karen Gillon's reference to the plight of people with learning disabilities who live in parts of rural Scotland, who are often extremely isolated. Linda Fabiani explained movingly some of the consequences that that can have on a human level. This week I received a reminder from a constituent in Badenoch and Strathspey that there is no supported accommodation for adults who have learning disabilities in that area—even though the area is considerably larger than greater London. I am pleased that there are plans for a small unit and I hope that that work can be progressed fairly quickly.

Linda Fabiani mentioned two feisty females, Madge and Jeanette, who gave a bravura performance before the Public Petitions Committee. Jenny Fullarton and Kenneth MacLennan followed them in speaking to that committee. They got a very fair hearing and I am pleased to see that the convener of the committee, Michael McMahon, is here this evening. As Eleanor Scott suggested, they came before the committee because they wanted to explain their experience.

"The same as you?" has had widespread support but initially, as the minister will know, some of the parents of children who have learning disabilities had to be persuaded that it was deliverable, practical and that it would work. They know more than anybody else can ever know the



difficulties of looking after children who have profound learning disabilities. Those parents were persuaded after a while because the Government said back in 2000 that there would be no more long-term residential learning disabilities hospitals by 2005—their hopes were raised. As was mentioned, on 16 March there were 33 long-stay residents in the learning disabilities unit at Raigmore hospital. I am told that there were previously 38. The problem is that hopes were raised and then dashed. We should all recognise that and I do not say that in a party-political sense.

There is no single solution and nobody is arguing that one size fits all. Each person who has learning disabilities has the right—we should remember this—to make choices, as we do. We should never speak of people as if they have no right or capacity to make choices. In that respect, rather than repeat points that have been made eloquently by others, I put in a plea for the role of advocates such as Jenny Fullarton, who not only speak out for people who are not always able to speak for themselves, or who might on occasion be unable to do so, but also build up a bond of trust and confidence that allows children especially, but also adults, who have learning disabilities to achieve their potential.

I have no doubt that the minister and everyone here wishes to see the implementation of “The same as you?” The core and cluster model might be worthy of support, especially for people who have stayed for a long time in residential hospitals and who have built up a rapport and friendship with others. It is not necessarily easy for people in such situations to make quick friendships; they might be slow to build up trust, so that model is one option.

I praise the work that has been done by Highland Council, by Councillor David Flear and many others. I am pleased to say that since March there has been progress in respect of five tenancies, so it is not all doom and gloom, even from Fergus Ewing.

17:43

**The Deputy Minister for Health and Community Care (Rhona Brankin):** I too congratulate Jackie Baillie on securing this evening’s debate. I join her in congratulating individuals with learning disabilities, family carers and the many organisations who have shown what success can look like.

Learning disability week gives us the opportunity to celebrate the positive changes in the lives of people with learning disabilities. It is also, as many colleagues have said, an appropriate time to acknowledge the work that still has to be done.

There have been many positive changes since Iain Gray launched “The same as you?” five years

ago. Those changes are the result of a combined effort at local and national level. The Executive is grateful for the support of the national implementation group and the users and carers group in addressing priorities. I welcome the good working relationship that we have with colleagues in the partnership in practice network in working to deliver better services and support.

Jackie Baillie mentioned that there are sometimes differences in practice in different parts of Scotland. We are analysing the current round of submissions and feedback will be given to the PIP network. The Scottish Consortium for Learning Disability has recently done an analysis of local area co-ordinators and we will act on its findings.

The SCLD has been one of the key players in supporting implementation. Its work to influence attitudes has been instrumental in providing a focus on ability rather than disability. Many members have recognised that. For me, that has been one of the most positive changes.

For many years, I worked with young people with learning disabilities in the Highlands. Since coming into this job, I have met many adults with learning disabilities who are now partners in planning local services and trainers of professional staff and others who are members of NHS Quality Improvement Scotland and social work inspection review teams.

At the recent event for this year’s SCLD leadership programme, I met people from a number of projects who are at the centre of delivering change. The theme was people taking charge of their own lives and there was plenty of evidence of that happening.

So where have we got to with implementation? As many members have mentioned, one of the few targets in the review was the closure this year of long-stay learning disability hospitals. “Home at last?” pulled together the first coherent information from across Scotland. The NHS Quality Improvement Scotland programme of work that it recommended is well under way.

I acknowledge that, at the end of this year, there will still be a small number of people with learning disabilities who await resettlement in the community. Officials are presently undertaking visits to all relevant boards to ensure that robust plans have been agreed for each individual who is still in hospital. This issue will also feature in this year’s annual review visits to NHS boards and I will regularly review information on patients awaiting discharge.

Fergus Ewing specifically mentioned the situation in Inverness. Tomorrow, officials from performance management are visiting Inverness. We are saying quite clearly to Highland NHS Board that we do not accept what it is telling us.

We want the plans to be fully implemented by April 2006. That will be followed up by an accountability annual review by a minister. Of course, additional money has been put in place. We need to work closely with Highland NHS Board and I intend to do that.

Hospital closure is not an end in itself. It can be successfully achieved only with the right community supports, which is the area where we still have some work to do. We need to build up supports for people who are already in the community and for family carers—many members mentioned the importance of respite. I am acutely aware of that need and had a recent meeting to discuss the development of a possible strategy for respite.

Only this week, officials met colleagues in Enable to discuss issues for carers who support adults with learning disabilities in the family home. Understandably, carers who are growing older worry about what the future holds for their sons and daughters. We have agreed to consider a number of ways in which we can raise awareness and progress person-centred planning at a local level. Many members spoke about the particular problems of older carers who look after adults with learning disabilities.

“The same as you?” is supplemented by a number of developments that work towards the same goals. “Promoting Health, Supporting Inclusion” is taking forward the agenda for training nurses. We are working with the SCLD and Enable to share good practice in relation to meeting people’s needs in general hospitals and will take part in a seminar on that subject later this year.

The health needs assessment sets out a tiered model of service provision. Further, a guidance note on learning disabilities and autistic spectrum disorders that was issued earlier this year will ensure that the needs of people with those conditions are addressed at the earliest stages of the development of community health partnerships.

Research has also been published on people with learning disabilities in secure settings. “On the Borderline?” identified a number of action points that are being addressed by the Scottish Prison Service to improve assessment. On Tuesday, the “Go for it!” research report on employment support was published. It, too, relates to a point that many members have raised during the debate. That work will help with an agenda that is enormously important to people with learning disabilities. I know that Allan Wilson is committed to taking work forward in that regard. We are all aware that this matter is not one that is simply for ministers with responsibility for health, as has been pointed out by several speakers.

The national implementation group is now working to tackle a more mainstream agenda, but that does not mean that we are not continuing to focus on specialist services. It is clear from the work that we have done on children’s issues, employment and advocacy that building up community supports and inclusion will help local agencies to develop more equitable services.

Many members, notably Karen Gillon, talked about services in their constituencies. She has gone, but when I see her I will tell her that I am more than happy to visit some of the services in Clydesdale that she described.

We have already discussed the potential to influence community planning through the involvement of the most influential people—people with learning disabilities and family carers. They must be at the centre of community planning, taking their place with everybody else. Our users and carers group members are keen to take forward their experience in involvement and engagement to make contact with local planning leads and raise the profile of learning disability.

From there, we will move on to other important issues for people with learning disabilities—and indeed for all of us, because they are issues for everyone in society—including transport, leisure and recreation and further education. All of us who are here today have some responsibility and opportunities to help to take forward the vision of “The same as you?” I say to Linda Fabiani, who talked specifically about elderly carers, that I am more than happy to meet her and members of older carers groups.

I am aware of my responsibilities and I know from listening to colleagues that everybody else is aware of their respective responsibilities. I assure the Parliament that the Executive and I remain as committed to that agenda today as we were five years ago.

*Meeting closed at 17:52.*

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