

MEETING OF THE PARLIAMENT

Wednesday 7 December 2005

Session 2

£5.00

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Scottish Parliament

Wednesday 7 December 2005

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

Time for Reflection

The Presiding Officer (Mr George Reid): Good afternoon. Our first item of business, as is usual on Wednesdays, is time for reflection. Our leader today is Mr Donald Matheson, elder of the Free Church of Scotland and session clerk of the Falkirk congregation.

Mr Donald Matheson (Elder of the Free Church of Scotland and Session Clerk of the Falkirk Congregation): Presiding Officer, ministers and honourable members, I consider it an honour and a privilege to address you today, and I thank you for the invitation.

We have it on the very highest authority that

“A prophet is not without honour except in his own country and in his own house”.

If that is the case with prophets, we should not be surprised if, as politicians, you are not always honoured and perhaps suffer disrespect and even criticism at times. But today, I want to give you a message of appreciation, encouragement and recognition. That is why I was so pleased to hear last month of the Presiding Officer’s tribute to you all and to the staff who administer you. Coming from a man who has been named Scots politician of the year twice, that is a worthwhile tribute, and one that I warmly applaud.

My appreciation is expressed not because you have introduced and passed legislation with which I agree. On the contrary, you have from time to time produced legislation on several issues that was very different from what I and the Free Church preferred and, in some cases, recommended to you. That is your prerogative. No, my appreciation is for your service to Scotland—for your often selfless efforts to restore to our great country prestige and a position that it has not held since 1707. That service is a resumption of a great parliamentary tradition that saw Christian democracy and education established in Scotland well ahead of most countries in Europe. Your service has often been provided at the expense of what in media jargon is called “a good life/work balance”, and I thank you for that sacrifice.

I want to encourage you first of all by telling you that all Free Church congregations pray for you regularly. They pray that you may be upheld by God and given wisdom to make sound decisions

for the good of all. “Well,” you might say, “big deal. So the Free Church is praying for us.” Yes, and note that those prayers are offered for you, whatever your party, your faith, your religion or your gender, by more than 12,000 men and women who are bearing you up before God. That is not support that you should readily despise or disparage, even outwith election times.

I also want to encourage you because I believe that you are where you are by God’s authority. In the book of Romans, chapter 13, verse 1, we are told:

“The authorities that exist have been established by God”.

So you are where you are by God’s grace. You are God’s servants, set in authority over our beloved country. I appreciate that some of you might not accept that yours is a divine appointment, but there is one divine directive with which I trust few, if any, of you will disagree. That directive is found in the book of Micah, chapter 6, verse 8:

“What does the Lord require of you but to do justly, to love mercy and to walk humbly with your God”.

That is my thought for you today—to do justly, to love mercy and to walk humbly with your God.

Joint Inspection of Children's Services and Inspection of Social Work Services (Scotland) Bill: Stage 1

The Presiding Officer (Mr George Reid): The next item of business is a debate on motion S2M-3629, in the name of Peter Peacock, on the general principles of the Joint Inspection of Children's Services and Inspection of Social Work Services (Scotland) Bill.

14:35

The Minister for Education and Young People (Peter Peacock): I thank members and, in particular, the Education Committee for agreeing to consider the bill under an accelerated process. Despite that timescale, the committee has given detailed scrutiny to the bill, and the depth of its questioning is a credit to the Parliament and the way in which it conducts its business.

We have considered the committee's report, the evidence that the committee received and the results of the widespread consultation on the proposals for joint inspection. They all demonstrate overwhelming support for the principle of joint inspection as a critical component of ensuring that all children's services are delivering effectively. Within child protection, the joint inspection process will evaluate whether local services are working together to keep children safe and protected. It will provide the third-party, objective evidence that children, the community and Parliament want and require.

It is fundamental to the purpose of joint inspection that we ensure that the child's experience is central to the process. Inspections will consider an area's strategic planning, leadership arrangements and operational delivery, but they will be marked out by an evaluation of the services from the child's perspective and based on the child's experience. That is why it is crucial that, in addition to talking to children and young people about the services that they receive, a sample of case files is considered and a child's journey through the various services that they have received is evaluated.

There appears to be no disagreement about that methodology. Indeed, most respondents to the committee's request for evidence welcomed it. The methodology was tested, initially in the dry run of the joint inspection of child protection services in Tayside last summer and later in two pilot joint inspections that were completed in April.

Each individual inspectorate has powers to access personal information, and we thought that the inspectorates could use their existing powers

collectively during joint inspections. That assumption was borne out by the Tayside dry run but, as a consequence of one of the ways in which the pilots operated, we received advice that joint inspection teams needed to be given specific powers to access and share personal information for the purpose of inspecting children's services together. As soon as that advice was clear, we moved quickly to provide inspection teams with the necessary powers. The review of existing powers led us to conclude that the Social Work Inspection Agency needed clear powers to inspect general social work services in the way that we want it to, and we have taken the opportunity to provide those in the bill.

None of those matters has given rise to significant concerns among the key interests involved with services to children. The two outstanding issues of principle that were raised in committee are the requirement to seek consent to access an individual's records and the need to ensure that personal information is handled confidentially.

We have no difference with those who say that it is best practice to seek consent. However, the way in which consent is sought must differ and be treated sensitively, in line with the nature of the inspection. On the child protection joint inspections, we share the view of all the inspectorates and most of those who work with children on child protection matters, which is why we have chosen the route of implied consent. However, we understand that the matter is complex.

Mike Rumbles (West Aberdeenshire and Kincardine) (LD): The British Medical Association in particular has raised concerns about confidentiality. How will the minister address those concerns?

Peter Peacock: I ask Mike Rumbles to bear with me. I intend to set out some of that, because we are being careful about how we deal with such issues.

We respect and share the view that the process of seeking consent must be carefully applied. That is why we have developed draft regulations and a draft protocol in tandem with the bill. The protocol describes in detail how inspection teams will work with professionals and children to gather and consider information sensitively. The inspection team is collating the comments that have been received on the protocol and I have asked it to meet again with all relevant groups to develop the protocol to reassure them further and identify how they can work together as child protection joint inspections proceed.

I come to the point that Mike Rumbles raised. The committee has asked us to consider the case

for including an opt-out in the bill for a child or young person who does not consent. I agree that the protocol should deal with such circumstances on a case-by-case basis. However, in child protection cases, it would be the parent who could opt out on behalf of the child and, in some circumstances, that might not be in the child's interests. I understand the concerns of some health professionals in that regard, which is why our regulations specifically address the way in which confidential health information must be handled and why the matter has been built into the protocol.

However, a variety of agencies—not just health agencies—hold sensitive personal information on individuals. The bill will ensure that all confidential information should be treated with sensitivity and in full compliance with the Data Protection Act 1998 and the European convention on human rights. I am therefore not minded to agree to a blanket opt-out in the bill. However, a further protocol will be developed to fit the wider approach to the joint inspection of children's services. It will address how consent will be sought in line with the particular services to be inspected and it will consider whether the principle of seeking consent should be applied differently to reflect the age and stage of the development of the children involved.

I welcome the Education Committee's interest in the importance of the protocol. We will introduce an amendment at stage 2 to strengthen the approach by ensuring that the inspectorates are bound by a duty to have regard to protocols in the conduct of inspections. Further, I recognise the committee's interest in parliamentary scrutiny of the protocol and I can confirm to Parliament that we will consult the Education Committee on the draft protocol before it is approved by ministers. The protocol will be created within the framework that Parliament will approve for it by regulation. I hope that that demonstrates that we are happy for parliamentary scrutiny of the draft protocol to take place, while retaining flexibility to adapt protocols as experience develops.

Fiona Hyslop (Lothians) (SNP): I thank the minister for his suggested amendments, but will he clarify the point that he made about the protocol being subject to regulation?

Peter Peacock: On the way in which we will draft the protocol, the regulations set out that we will seek the approval of Parliament. We will not seek approval of the protocol itself, but the regulations will create the framework for it.

I undertake to consult the committee on any significant changes that we seek to make to the protocols in the light of experience—that would apply over time to both protocols: for child protection and for wider children's services.

Margaret Smith (Edinburgh West) (LD): Although I am not a member of the Education Committee, a local general practitioner has raised concerns with me on the amount of consultation that took place before the legislation was introduced. I noted that, in its report, the committee asked for the protocol to be open to public consultation, partly as a result of the perceived lack of consultation. Is that the way in which the Executive plans to go forward?

Peter Peacock: Yes. We intend to consult on the protocol as widely as we can and, because of what I have just said, we would bring that protocol to Parliament in draft form, so that it will be seen to be scrutinised in public by the parliamentary committee with responsibility for it. My clear intention is to take people with us on the protocol. I do not seek to do anything other than that.

Lord James Douglas-Hamilton (Lothians) (Con): Will there be the opportunity to suggest amendments to the protocol?

Peter Peacock: We took the code of practice on the Education (Additional Support for Learning) (Scotland) Act 2004 to the Education Committee; in the same spirit, we would be mindful of the committee's suggestions on the protocol. The intention behind taking the protocol to the committee would be to hear its views. We want to get the protocol right and, through that process, to respond to as many concerns as we can. We would certainly listen to what the committee had to say.

The second important principle raised by the Education Committee is the suggested amendment of the bill to include a duty of confidentiality on the inspection team, to which I am sympathetic. All members of an inspection team are already bound by their various professional codes and terms of employment to respect confidentiality. However, I recognise that a duty would help to provide further reassurance. I am taking advice about how that might be achieved. If I can give effect to the suggestion, I will seek to do so, and I will keep the committee advised of the position right up until stage 2, as best I can.

I welcome the Education Committee's request for a review of the legislation and the protocol prior to the introduction of the joint inspection of wider children's services and I will work with the committee to ensure that the review is conducted satisfactorily. I will also write to the committee addressing all the points raised in its stage 1 report that I have been unable to deal with in the debate. Further—and I mean this genuinely—I signal to all in the chamber my willingness to listen to and to discuss any thoughts on amendments prior to stage 2, both to ease the passage of the bill and in a genuine spirit of co-operation.

In March 2004, our proposals for joint inspections received a universal welcome. That support has continued during consultation on the proposals and during the pilots. When the problems that we are addressing in the bill became apparent, we received full support in seeking to put them right very quickly.

There is no debate about whether joint inspections should be introduced. The significant challenge that they have to meet is that of ensuring that the joint inspection process contributes to improved outcomes for children. Enabling joint inspection teams to consider the information that they need is an essential part of that process, and the bill enables them to do that in full compliance with the Data Protection Act 1998 and the ECHR.

The teams need to use their powers sensitively and transparently. That is why the protocols that will be used will be fully consulted on. In that way, I am confident that any outstanding concerns can be addressed and resolved to the satisfaction of most of those involved.

I move,

That the Parliament agrees to the general principles of the Joint Inspection of Children's Services and Inspection of Social Work Services (Scotland) Bill.

14:45

Fiona Hyslop (Lothians) (SNP): This bill is probably one of the most important that we will deal with, even though it is being rushed through and has been given very little parliamentary time this afternoon. Politicians, whether national or local, have no greater responsibility than dealing with child protection.

Joint inspections are recognised by all across the chamber and in wider society as a means of driving forward best practice. Unfortunately, we know from tragic cases that, time and time again, the lack of interface and problems between different organisations—social work, health organisations and the police—cause difficulties and give rise to tragic circumstances.

Lack of access to health records was a stumbling block that meant that the roll-out of joint inspections had to be curtailed. Therefore, the Scottish National Party is happy to co-operate with the progression of the bill, although I wish to point out that the need for such legislation was foreseen by the Education Committee during its inquiry into child protection last year. Wendy Alexander and I intimated to the minister that there might be a need for legislation, and that since child protection was one of the most important areas in which legislation might be required, we should act. However, we recognise that we are where we are, and we have to go forward on that basis.

I know that my time is limited, but I will pull out some of the key areas—my colleagues may do the same. There is an issue about confidentiality and about access to individual health records in particular. People are concerned that although the bill has two parts, it covers three areas. Part 1 covers child protection and children's services as one element. Part 2 has implications for the Social Work Inspection Agency, and covers access to medical records—but only by a medical practitioner. There is concern that there seem to be two sets of standards. The committee is right to ask the minister to address and clarify that issue. The BMA and GPs raised specific concerns about access to information by children's services.

The bill is about the inspection of past cases. We know that the minister and the chief medical officer have written to all those involved in children's services to say that child protection trumps any other issue in live cases—that is the norm. At issue is the introduction of processes for retrospective checks. We have to look at the logic of the Executive's approach. I understand the concerns of the BMA and GPs that openness in the inspection of children's services generally may lead to an expectation that social work and education inspectors will check services willy-nilly. Those concerns are mistaken. We need to clarify that the bill allows very specific inspections to take place when information about individual cases can help to illuminate previous problems.

There is a further lack of logic in the Executive's approach. We support joint inspections, and the committee recognises that by looking at broader children's services we may identify vulnerable children who do not receive the services that they deserve because they are not on the at-risk register. Sometimes it is easier to track children who are on the at-risk register and the services that are provided to them than it is to track children who are not on the at-risk register, but who also have problems.

The committee raised concerns that England is much further ahead on the inspection of children's services than Scotland is, although England started the process after we did. The committee heard that that is because Scotland is examining child protection in more detail and more robustly. It was argued that it is only by examining children's services in the round that we can identify failures in connections, but the fact that the Scottish Executive has chosen to focus only on child protection gives the lie to that point.

The Deputy Minister for Education and Young People (Robert Brown): It is perfectly true that England is ahead of Scotland in relation to children's services but, by the same token, England is looking specifically at child protection services. Indeed, some inspectors from England

have been sent up to Scotland to look at what we are doing. There is an interplay; it is not a question of two different approaches. Both England and Scotland recognise that child protection services are central. The question is how best we can focus on the matter within the broader spectrum of children's services.

Fiona Hyslop: I appreciate the minister's point, but the issues need to be aired.

When we were presented with the bill and when we first heard evidence on it, particularly from Her Majesty's Inspectorate of Education, we were told that it would allow access to records without consent. However, I detect that the minister is moving towards the use of implied consent. There is an important difference between no consent and implied consent, and it is important to articulate the change to GPs, many of whom do not know of the existence of the bill. I hope that, when they are made aware of the bill, that will be done on the basis of the minister's movement towards adopting implied consent.

The committee recognises that the Scottish Executive has agreed the code of confidentiality—which will bring in the concept of implied consent—with the Scottish general practitioners committee of the BMA. I am not sure how many people read the notices in GPs' surgeries but I suspect that putting the notices up might be more a matter of convenience than a matter of import. The committee received strong evidence from ChildLine, from GPs and from people who work in sexual health advice services about cases in which people want to provide support to their children who are misusing drugs. In such circumstances—for example, in a case in which someone's 17-year-old daughter has used drugs in the past—confidentiality is important to practitioners in the field, and the involvement of the police in joint inspections could throw up a load of issues. The committee made some important points about that.

I am conscious of the time. The public do not know much about the bill—it has not grabbed the headlines—and I fear that GPs do not know much about it either. It would be helpful for information on the progress of the bill and the changes that have developed to be communicated to a wider audience before the bill is considered at stage 2 in January.

14:52

Lord James Douglas-Hamilton (Lothians) (Con): I must compress everything that I have to say about the bill into four minutes, so I will try to make every word count.

In my view, the Executive was entirely right to introduce a bill to protect children; the protection of children should be a paramount consideration.

However, that does not alter the reality that a balance has to be struck between protecting children and maintaining patient confidentiality. I believe that an appropriate balance can be struck that will meet the test of time, but it will be necessary to seek a number of commitments at stage 2.

First, the minister promised a firm review, but the question is whether the requirement for that review should be in primary legislation in order to give the maximum reassurance to organisations such as the British Medical Association that have serious reservations about the bill. I have already floated the idea of a sunset clause. If I remember correctly, the minister did not say yes or no to that idea. It may be that a sunset clause is not the best way to proceed, but in view of the accelerated procedure that is being undertaken in the interests of child protection, a powerful case can be made for the review being enshrined in the bill.

Secondly, we must address the question whether there should be a duty of confidentiality in the bill. I ask the minister to confirm a point that arises from that. Will the protocols supplement the existing code of guidance, rather than displace it? Also, will appropriate references be incorporated into the primary legislation? The medical profession, in particular, does not want the principle of patient confidentiality to be seriously compromised or eroded and we should be sensitive to the profession's practical needs and concerns. The problem should not be insurmountable.

There is also the question whether a sanction should be applied following a deliberate breach of confidentiality that is contrary not only to best practice but to the code of confidentiality. Clearly, such a breach would be improper. There should be some sanction, such as making such a breach an offence or possibly subject to disciplinary procedures. Otherwise the issue may not be treated with the careful consideration and strict discipline that it merits.

Finally, I have had the good fortune to work for many years with HMIE. I know that the inspectors are extremely able, dedicated and selfless professionals whose interest is the public interest and, in particular, the protection of children. I have no doubt that they would not wish the medical profession to be unnecessarily alarmed and that they would wish their profession to adhere to the highest standards. In a letter of October 2005, the minister gave the

"necessary reassurance that sensitive, personal information will be protected under clear rules of confidentiality by the joint inspection team in full compliance with legal requirements."

On the basis that appropriate safeguards can be incorporated into the legislation during stage 2 of the bill, we will vote for it. I hope that, in return, ministers will show their good faith by considering seriously and sympathetically the concerns that have been raised.

14:57

Iain Smith (North East Fife) (LD): Presiding Officer, I appreciate your co-operation in allowing opening speeches to be slightly longer than is normal in a debate of this length. However, I put on record my concern that a stage 1 debate should be curtailed, as that makes it difficult for members to discuss all the issues that arise. I hope that business managers consider that point, certainly with regard to the length of time that is available to opening speakers.

The bill's passage has been accelerated, so I would like to thank the committee's clerking team for putting together a robust report in the available time. I thank Eugene Windsor and Mark Roberts in particular for their work.

At the start of the process, the committee asked the minister to justify the accelerated timetable. It is justified. Fiona Hyslop mentioned the fundamental importance of child protection. The joint inspections are a clear way of ensuring that child protection procedures in Scotland are robust and that children are properly protected. It is important to bear in mind that the bill does not introduce new policies; the principle of child protection through joint inspections has already been accepted. Indeed, the bill has come about not because of a new policy but because problems were found when the policy was piloted. There were particular problems in identifying whether there was an adequate legal basis for the joint inspections and for their having access to health records. It is important to have on record that we are not rushing this through without prior consultation or discussion; the principle of the bill has been part of public policy for a considerable time. Indeed, the 2004 report "It's everyone's job to make sure I'm alright" highlighted the way forward for that policy. Under my august predecessor, Robert Brown, the Education Committee was certainly strong on ensuring that the issue of joint inspections was taken forward.

It is important to bear in mind that the primary purpose of joint inspections is to ensure that agencies that have a role in child protection have the systems and procedures in place to ensure that children are protected. The purpose is not to usurp or replace the roles of the various inspectorates, such as HMIE, SWIA, the Scottish Commission for the Regulation of Care and Her Majesty's inspectorate of constabulary for Scotland, and the respective services for which

they are responsible. Those inspectorates will continue to carry out the inspections of the services for which they are responsible. The primary purpose of the joint inspections is to ensure that we have robust procedures to make sure that children are adequately protected.

The purpose of the sample cases, which much of the debate to do with health records has been about, is not to second-guess the professional judgments of those who dealt with those cases at the time, but to ensure that procedures were in place for health visitors and others in the health service, in social services and in education and were being followed in such a way that children were properly protected.

I welcome the minister's assurances, which he gave us in his opening remarks, in response to the Education Committee's report. The bill is being dealt with in a spirit of co-operation both between the Executive and the Education Committee and among the members of the Education Committee because we all recognise its importance. However, I must stress for the *Official Report* that that does not mean that we will not adequately scrutinise the bill. Our report shows that, despite the accelerated timetable and our co-operation to ensure that the bill is passed, the committee is not letting up on its important scrutiny role.

I thank the Executive in particular for agreeing to a request from the committee for more time for stages 2 and 3. It was originally proposed that the bill should complete its passage by December, but there is now a little extra time for the important amendment stages.

I want to raise three key points from the report, which other members and the minister have already touched on. The key issues that have arisen that we must address at stage 2 include confidentiality. I welcome the minister's response to the committee's request for a duty of confidentiality on the inspectors to be included in the bill and his comment that there will be a duty on the joint inspectors to follow the protocol. I also welcome the minister's agreement that the protocol will be subject to full parliamentary scrutiny. The Education Committee will have an opportunity to consider and comment on it before it comes into play. Those are extremely important matters.

There is an issue relating to confidentiality that we have still to address and on which the minister must come back to us at stage 2: the position of Her Majesty's inspectorate of constabulary and the role of serving officers in the joint inspection teams, who may have a different common-law responsibility if, for example, a criminal offence is identified in a health record. That is an important issue with respect to confidentiality and health records. Problems might arise if young people do

not feel confident about going to their general practitioners with issues to do with sexual health or drugs because their health records could be accessed by joint inspection teams. We must ensure that young people are not discouraged from going to their GP because they are afraid that something that could lead to a criminal prosecution might come to light in a joint inspection. That is an important issue. We must ensure that we have robust answers to such problems in the bill or the protocols.

Secondly, there is the issue of consent. There are no easy answers to the problems that are involved. The bill and the regulations must make it clear that implied consent should be clear and unambiguous. People should not say, "Well, nothing has been said and therefore consent is implied." There must be a clear statement, as there is in the GP contract about access to records for the purposes of audit of GP services, that consent is implied and that records can be examined for this purpose. That is needed in the legislation.

We must also consider how we should address what I think will be the very small number of cases in which somebody, for reasons that are not genuine, wishes to withhold consent, and how the protocol should be dealt with. That is an important issue that is not easy to address.

Paragraph 41 of our report mentions the dichotomy between what the British Medical Association and the Executive want. However, it is important to bear in mind that the Royal College of Paediatrics and Child Health thinks that urgency is needed and that the form of implied consent is important.

I will deal briefly with the final point that I want to raise, as the minister has acceded to it. Whatever processes we put in place for child protection joint inspections, those processes should be reviewed before there are full children's services inspections, which are scheduled for 2008, in order to ensure that the procedures for wider children's services inspections, as opposed to those that are primarily aimed at child protection, are correct.

The Liberal Democrats support the bill and I commend the committee and the ministers for the way in which it has been handled at stage 1.

15:04

Dr Elaine Murray (Dumfries) (Lab): Back in 2004, the Education Committee reported on progress on "It's everyone's job to make sure I'm alright". At that time, we acknowledged the complexity of the task of multidisciplinary inspections and expressed concern about the length of time that was being taken to develop the

inspections and put them into practice. Officials did not then think that there would be a need for legislation. In response to Fiona Hyslop's point about the committee's views, I will quote what the Minister for Education and Young People, Peter Peacock, said to the committee then. He said:

"If we think that there is a need to legislate, then we will legislate. We are not going to let anything get in our way on this issue. We think that we can achieve our aims and do what we need to do by administrative means, but I will not rule out the possibility of legislation if that is what we ultimately conclude is necessary. ... if we think that new powers are necessary, we will undoubtedly take them."—*[Official Report, Education Committee, 26 May 2004; c 1469-70.]*

At that point, the minister showed his willingness to learn from the pilot scheme and to legislate if that turned out to be necessary. Therefore, it is unfair of Fiona Hyslop to say that the committee suggested at that point that legislation was necessary and that the minister ignored our advice.

Fiona Hyslop also referred to the situation in England. We must make it clear that the inspections in England are inspections of children's services, consequent to the Children Act 2004, in respect of their success in meeting the five key outcomes of children being healthy, staying safe, enjoying and achieving, making a positive contribution, and achieving economic well-being. The Office for Standards in Education has said, regarding proportionate inspection in those terms:

"we cannot and nor should we attempt to inspect everything. ... One of the key tasks for us in judging where to put our inspection time and activity is to get to the right places".

Ofsted recognises that the inspections in England will be fairly limited. I was pleased to hear from the Deputy Minister for Education and Young People that the inspectors in England are interested in what we are going to do in Scotland. On child protection, we are ahead of our colleagues south of the border.

The committee expressed concern over the length of time that it has taken to get this far. Although we acknowledge the restraints on consultation that were caused by the tight timescale, the committee agrees that the bill should be progressed as soon as possible. We are grateful for the increased time that has been made available for its consideration at stage 2, which will enable us to consider the proposed amendments in more detail.

I was not convinced by the BMA's evidence. Some of it was a little precious and some was contradicted by evidence that we received from paediatricians and others. There is an issue about consent and the genuine concern of individual GPs that their relationships with patients could be

compromised. I am glad that the Executive has agreed to look at implied consent, but we must bear in mind the fact that child protection has to override other considerations.

The committee also discussed whether the police should have access to medical records when evidence of an individual's previous offence or an unrelated offence is uncovered and whether that could lead to prosecution. I am pleased that the minister has agreed to consider that.

I was convinced by Jacquie Roberts of the care commission when she pointed out to Ken Macintosh that there are children who are not in the child protection system who need to be. Unless we are able to inspect children's services in the round, we will not find out about such children and whether systems are in place in children's services generally to enable those services to identify effectively the children who are at risk. That is why we need to have sections 1 and 2 in the same bill.

The bill is one of a train of measures that have been put in place after the murder of one of my constituents, Kennedy McFarlane, by her stepfather. Lack of communication between the agencies was identified as a key factor in the failure to prevent that tragedy. I therefore welcome and support the bill as one of the tools to prevent such a tragedy from happening again.

15:08

Eleanor Scott (Highlands and Islands) (Green): I will concentrate on what is clearly the controversial part of the bill—the access, for inspection purposes, to health records. For the record, I declare that I am a former community paediatrician and that I remain a member of the British Medical Association. I thank the committee for its stage 1 report, although I echo the concern that other members have expressed about the rushed timescale, which has made things difficult for members who are not on the committee.

I fully support the call for a system to evaluate our child protection services not only to be in place but to be working effectively. I agree that health records should be included in the inspections; the challenge is to do that while respecting patient confidentiality and to do it meaningfully. The national health service currently has no inspection system like that which exists for our schools; there is no NHS inspectorate with skills and experience that are similar to those of HMIE. I would not go as far as some health professional bodies, which say that it will have to be a doctor who looks at health records, but I believe that it should be a health professional. My preference would be for that person to be a nurse with child protection experience.

Although I agree that there should be joint inspections of child protection services, I am concerned that the bill grants a blanket permission to inspect all children's services. There is a clear difference. In child protection cases, confidentiality has, in a sense, already been breached for the good reason that that was necessary and in the interests of the child. That has been the normal, expected course of action for some years. Professionals accept it and the public expects it.

However, it is a bit different for other children's services. I agree that the bill tries to address the fact that, for example, children who have special needs receive services from many agencies and that it is essential that those agencies work together. That often means that information must be shared but, at the moment, that is done through consent. Indeed, it is often done in forums such as multidisciplinary meetings in which the parents and the children, if they are mature enough, play a crucial role. I agree that there is a need for some sort of inspection system to ensure that all those services are working together.

Robert Brown: Although the issues seem to concentrate on child protection, I make it clear that there is no intention to override consent when we are dealing with children's services.

Eleanor Scott: I thank the minister for that reassurance. I think that explicit consent should be required for the inspection of health records in cases other than child protection cases. I would be happier if the bill were confined to child protection. That is the only point on which I do not agree with the committee's recommendations, because that is what I thought was the original intention of the bill, and that is what the pilot looked at. At the very least, the review that the minister said will take place before the inspection system is extended to other services is important.

There are several details about the bill that I will not have time to talk about. A basic one is the definition of a child. The arbitrary use of the age of 18 does not fit in with other usage. I am not sure that it is acceptable that a 17-year-old's health records can be examined without the person being consulted in advance.

The big issue for me is confidentiality. It is even more of an issue when the child has not been in the child protection system and their records have not been breached for any reason. If confidentiality is to be breached during an inspection, it should be done with explicit consent.

I came to the chamber thinking that I would abstain in the vote because of my concerns. I am a bit more inclined to support the bill now that I have heard the minister's reassurance about a review taking place before inspections are extended to services beyond child protection. I will

probably vote for the bill, although I will decide after listening to the minister's summing-up.

15:12

Scott Barrie (Dunfermline West) (Lab): I congratulate the Education Committee on producing a succinct report for those of us who are not members of the committee. It accurately summarises the main parts of the bill and, perhaps more important, points out where the main difficulties lie. Like other speakers, I want to address those main difficulties this afternoon,

No one is in any doubt that we want there to be a better system for the inspection of child protection services and wider children's services. For too long we have had to listen to report after report, stretching away back almost 40 years to the tragic deaths of Jasmine Beckford and Maria Cauldwell in the early 1970s, in which the common theme has been a lack of adequate communication and information sharing by the relevant agencies. Some individuals in different parts of different organisations had small pieces of the jigsaw, but they never saw fit to—or were not able to—share those pieces and fit them together to create the whole picture.

If we are examining our children's services, whether they be child protection or wider children's services, we should be able to contact every single agency that has affected a child's life to make sure that they are adequately sharing the information that they should be sharing. That is quite important.

The issue of confidentiality is clearly incredibly important. Nothing will cause people more concern than unauthorised access to records—of whatever description but perhaps to medical records most of all. However, we have to acknowledge who will be looking at the records and their purpose in doing so. It is very important, particularly for those who are not necessarily in the formal child protection system but who should be, that we should be able to examine all the records. They might well tell us how those children slipped through the net. That would help us to protect other children in future.

For that reason, I disagree with the point that Eleanor Scott has just made. It is important that the bill's provisions on the sharing of information should not be restricted to information on children within the child protection system. It is not always easy to define which children are within the child protection system, as some children who are on the margins of the formal child protection system should properly be within the system. If we are to learn how to do things better in future, we need to learn how those youngsters were missed out from inclusion within the formal system.

Eleanor Scott: Does the member accept that issues of confidentiality arise in cases that involve the inspection of the health records of a child on whom information has not previously been shared with other agencies? That is somewhat different from child protection cases, in which the information will already have been shared.

Scott Barrie: The question should be turned round, as questions of confidentiality always arise. As I recall, when I started out on my social work career 20 years ago, we had interminable debates on confidentiality and on whether information that was confidential to the social work service could be shared. We had exactly the same debate as we are having today.

As Elaine Murray pointed out, the evidence from some—albeit not all—medical practitioners sounded a bit precious, in that they seemed to say that medical information should not be shared but it is okay for the information of other agencies to be shared. We should be very careful about going down that road. If we are serious about providing adequate services for all our children and—more important—adequate child protection services for those children who need them, we must ensure that all agencies that have a part to play in the child protection jigsaw are open to scrutiny so that we can ensure that they are doing exactly what they should be doing.

15:16

Ms Rosemary Byrne (South of Scotland) (SSP): Although I understand the need for the bill to be passed as speedily as possible, I also acknowledge the fact that many organisations have raised concerns about the extent and adequacy of the consultation on the bill and the speed with which it has been introduced. However, I welcome the minister's assurances that there will be consultation on, and scrutiny of, the protocol on joint inspection.

Confidentiality and consent are major issues of concern, as has been highlighted not only by members today but in the submissions of many organisations. The BMA is concerned that the bill will be detrimental to the doctor-patient relationship. The Royal College of Nursing has echoed those concerns and, as it did not have adequate time to consult its members, has expressed concerns about the truncated consultation process. Not only does the RCN have serious concerns about widening the scope of inspections to other children's services, it believes that introducing such a development at such speed will leave many health professionals who work in the field poorly informed about the changes.

Given that it is our job to ensure that everyone is all right, we need to ensure that those children who are not on the at-risk register are protected too. I fear that the Executive may be complacent in failing to include within the scope of the bill all the services and agencies that provide for young people. For example, as I have mentioned in Education Committee meetings, homelessness teams are crucial to protecting young people. Children who have chaotic lifestyles because their parents misuse alcohol or drugs can be on the round of temporary accommodation in hostels, whereby they require to be housed over and over again by homelessness teams.

Scrutiny of such services is key to ensuring that such young people are provided for adequately so that they do not fall through the net. We need to scrutinise the degree to which dialogue takes place among the social services, the school, the parents and the agencies that support the parents. I believe that big gaps exist, so I would like some answers from the minister because I believe that scrutiny is key to protecting children. For example, if young people are housed in a bad area where they are away from grandparents and need to move school yet again, they are simply being set up to fail. Sometimes nobody knows where those children are. I hope that the minister will examine that issue, as it concerns me greatly.

Another concern is that not all such children will be on an at-risk register. I hope that the minister will also give us some answers on that. I realise that it is not a key part of the joint inspections, but it is an integral part of ensuring that we protect children. I hope that we will do that.

We will support the bill, although we have some concerns, which I have raised. I have many concerns about resources that I do not have time to express. One of my concerns is that, despite inspections, if there are not enough social workers in place and children turn up at children's panels with the duty social worker instead of the social worker who works with them, we will not be doing the job that we need to do.

We tentatively support the general principles of the bill. Everyone has worked hard to get it to this stage. I am glad that the minister is listening, and I hope that we can address some of the issues at stage 2.

15:20

Mr Kenneth Macintosh (Eastwood) (Lab): I start by saying how much I welcome not only the bill and the Executive's proposals to improve our child protection framework but the open, responsive approach that the minister has taken in order to make the bill work and to get it right in the constrained circumstances that many members

have flagged up. To be fair, for the most part the Opposition has adopted a constructive attitude. I am optimistic that together we can support a bill that will give families and the wider community the reassurance that we all seek.

As nearly every speaker has indicated, the most contentious part of the bill is the provisions that relate to the confidentiality of medical records. I, too, will restrict myself in the main to that issue. Both the committee and the Executive agree that a balance needs to be struck between the rights of children to be protected from harm and their rights to privacy in respect of their health. The submission from the BMA was not the only evidence that we received from medical professionals. Elaine Murray pointed to the opinion of paediatricians, in particular, which did not support that of the BMA. That said, several organisations—especially the BMA—believe that the measures in the bill represent a fundamental erosion of the principle of confidentiality between patient and doctor. That is an important concern. In reducing the risk to vulnerable young people, none of us wishes to damage what can be one of the most important relationships in ensuring a child's welfare—their relationship with their GP.

I believe that two points should be borne in mind when we reach a judgment on the issue. First, the principle of confidentiality is not absolute. Doctors are already under an obligation to report to the appropriate authorities concerns about the welfare of children in their care. The powers retrospectively to examine medical records in the context of an inspection programme not only go no further than that existing duty or obligation but are nowhere near as extensive a breach of medical confidentiality. We are not pushing back the boundaries, as has been suggested elsewhere.

Eleanor Scott: Does the member agree that, in the case of child protection, the breach occurs in the child's interests? By the time an inspection takes place, the child concerned may be an adult or outwith the child protection system. The difference is that the breach takes place for the good of the services, rather than for that of the individual.

Mr Macintosh: I am not saying that there are no issues relating to confidentiality. There is a particularly strong argument for incremental changes to be made to the relationship between patient and doctor, which can change. However, given that, under the current system, the patient knows that if they tell their doctor a certain fact, the doctor has a duty to report it, I do not think that the proposals are as devastating as some people have made them out to be.

Secondly, the inspection is not only retrospective but minimal and proportionate to the needs of the inspection team. The Executive has

already drawn up a protocol to protect confidentiality in such matters. The Education Committee sought various reassurances and I was pleased to hear the minister's words earlier on a number of those points. The BMA suggests that GPs may feel threatened and we specifically asked the minister to respond to that on the record. He said that the power would not be used to second-guess the decisions of health professionals regarding their patients. On the other hand, if we expect and oblige doctors to share information and good practice and to work across professional boundaries with others in the field of children's services and child protection, it is only right that the inspection regime should buttress that notion of joint working with an effective examination of how it is put into practice.

One point that the BMA made in its evidence that is worthy of consideration by the Executive for inclusion at least in the protocol concerns the opt-out clause to which GPs currently agree as part of their new code of confidentiality. Under the code, patients are advised that their records may be accessed for audit purposes. They then have the ability to opt out—to signal their refusal to allow access for those purposes. I do not believe that a similar measure in the bill would undermine or jeopardise the impact of joint inspections. If it were included in the protocol, its impact could be kept under review.

I hope that none of those concerns obscures the overwhelming support for the principles of the bill that has been evident from nearly every witness or consultee. Joint working between social services, health professionals and others to ensure the welfare of our young people has been with us for some time, but professional barriers are still to be overcome. There is still a culture of retaining information in discrete organisations, which we need to challenge—the bill does exactly that. I hope that it will greatly reduce the number of cases of horrific abuse that we all find so distressing and that shake our confidence in those who should be looking after us.

I urge members to support the bill at stage 1.

15:25

Lord James Douglas-Hamilton: It is a joy to follow Ken Macintosh because he is always extremely interesting when he is at his most persuasive.

Many important points have been made today about issues of concern. There is a powerful case for enshrining in legislation a review, not just because the points that have been raised today have illustrated the several complex elements to the bill that could have unforeseen consequences. I appeal to the minister that there should be scope

to adjust the protocols in light of the consultations as well as scope to adjust the legislation after a review in due course.

I am still convinced of the need for a duty of confidentiality in the bill, which I hope the minister has accepted, and for the introduction of sanctions for an offence of deliberately breaching confidentiality.

The bill does not appear to contain powers of enforcement for the recommendations that are made by joint inspections although the power to direct is available to the minister through other powers in local government and social work acts. The Education Committee noted that position but considered that there remains a lack of clarity about whether the full range of required powers is available to ministers. It would be helpful if the minister would clarify that situation fully before the roll-out of the programme of joint inspections.

We will certainly give the bill a fair wind, but we look to ministers to make detailed improvements to the bill at the next stage, even if that means that we have to work overtime.

15:27

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

The SNP regrets the need for the Joint Inspection of Children's Services and Inspection of Social Work Services (Scotland) Bill, and regrets particularly that the normal consultation process had to be truncated to ensure that no further delays were encountered in multidisciplinary inspection of child protection services. If, as Elaine Murray said, we are being overly critical of the Executive and its lack of foresight regarding the need for such powers, she can hardly deny that the shortage of time that was made available is far from best practice, as the RCN and others have emphasised in evidence. That said, we accept the need for the bill so that the difficulties that the inspection process faces can be overcome, as the minister described.

We share the Education Committee's concerns that progress towards a complete multidisciplinary inspection of children's services and child protection has been too slow and will be completed only in 2008, some seven years on from the recommendation that was made in the report, "It's everyone's job to make sure I'm alright".

As most speakers have said, the key issues of concern in the bill centre on access to medical health information that is held on file; such access has hitherto been restricted by confidentiality between health professionals and their patients. As other members have said, access and confidentiality issues are not limited to an individual child's case file, which is sampled for

inspection purposes. What about information from the health records of relevant third parties such as parents or other adult relatives? What about police involvement in inspection teams and the extent to which confidential information might be passed to them about activities that are not relevant to the child inspection process? As Fiona Hyslop, Iain Smith and others have said, access and confidentiality issues are of concern, so I welcome the minister's assurance that he will give them further thought. I have already mentioned the primary concern that the BMA in particular expressed, which is that the confidential relationship between doctor and patient might be undermined if access is allowed without consent. To address such points, the minister has undertaken today to consider lodging an amendment to the bill that would place a duty of confidentiality on inspectors. I welcome that.

The Education Committee has also asked the minister to consider applying a code of confidentiality similar to that which was negotiated with general practitioners for the purposes of auditing. Patients are made aware that health records can be used for inspection purposes and, unless they specifically say otherwise, their consent is implied. I assume that the draft protocol on which the minister intends to consult will introduce the idea of consent. However, I cannot see how that could be applied retrospectively, because inspectors will be calling as soon as the bill is enacted. Perhaps the minister will reflect on whether transitional arrangements are needed.

I reiterate our desire that the joint inspection process should make quick progress, not just for inspections of specific child protection services, but for wider inspections of children's services. As Scott Barrie, Fiona Hyslop and others have said, those wider services will reveal the extent to which children who are in need of protection are slipping through the net.

Given the importance of getting on with inspections, and given the welcome openness of the minister to the idea of introducing amendments to deal with the key issues of consent and confidentiality, the SNP supports the general principles of the bill.

15:32

The Deputy Minister for Education and Young People (Robert Brown): This is a short but important bill and I am grateful to Parliament, the Education Committee and all parties in the chamber for the helpful and sensitive way in which the issues have been approached, and for members' understanding about the accelerated timetable. As Iain Smith rightly said, the timetable did not prevent the Education Committee from producing a robust report.

As Peter Peacock did earlier, I want to reassure members: we will study the *Official Report* of today's debate and we will come back to the committee on the issues that we have not picked up on and on the issues that we want to take further. We remain open to any approaches on particular aspects of concern.

The Education Committee's scrutiny of the bill has demonstrated the "overwhelming support", as the committee describes it, for the principle of joint multidisciplinary inspections of services for children. It is important to reiterate, as the committee does, that the purpose and rationale of the process is not to review individual health records but to audit and improve the processes that protect and support children. Elaine Murray and Scott Barrie were right to remind us why the child protection measures are so necessary, in the light of some very nasty cases over the years.

The bill will contribute to ensuring that joint inspections will be robust and that joint inspection teams will be able to report with confidence. Crucially, in the case of child protection services, teams will be able to report with confidence on whether or not services are working together effectively to ensure that children are safe and protected.

Adam Ingram asked about the timescale, which concerns us all. However, it is relevant to point out that the process for inspection arrangements in England will reach an end point at about the same time as ours does, in 2008. The difference is that child protection is the centrepiece for us. I stress that we want our measures to be extremely robust—what counts is not so much the timescale as whether the measures work. I am sure that all members would accept that.

Of course, we want to ensure that implementation of joint inspections proceeds with the full confidence of children, parents, service providers and all those who are interested in effective delivery of public services. We have to consider the difficult balance between the different but equally valid and important priorities of confidentiality and effective inspection. The potential conflict between accessing personal information and the duty of confidentiality between a patient and a health practitioner was rightly noted by the Education Committee.

We have heard various theories about expressed consent. Some representative bodies of health professionals want to ensure that people should operate without obtaining expressed consent only for very specific reasons. In the main, we agree—especially in the context of children's services. Consent is a fundamental principle that should be observed, but there are various forms and levels of consent. That, rather than the principle of consent, is what the debate has been

about. Expressed consent is not necessary or desirable in every case.

Fiona Hyslop: Is the minister's view that when access to records is sought as part of the inspection of general children's services, best practice would be to seek consent?

Robert Brown: Absolutely. A number of members made that point. There is a division that is difficult to define, which is why we got wrapped up in consideration of section 1 of the bill. It is important that we do not lose anything in that context, but the protocol for the inspection of children's services will be that expressed consent will be applied for.

However, different issues apply in child protection situations. Several members made the point that when it comes to professional practice and the inspection regime, child protection considerations override those of confidentiality and consent. I will dwell on that more as I develop my argument. We agree with the inspectorates and others that requiring that expressed consent be sought in child protection situations would be quite wrong. That is why we are proceeding on the basis of implied consent although, as a number of members have pointed out, child protection concerns will override that in some cases. It is not always possible to allow the parent, who might be involved in a variety of difficult situations, to refuse consent on behalf of the child. That is why consent on its own is not the whole story.

The principle of consent needs to be applied sensitively and in line with the purposes of joint inspection, the nature of the children's service that is to be inspected and the age and stage of the child. The draft protocol for joint inspection of child protection services is being redrafted to make that clear. I confirm to Lord James Douglas-Hamilton and others that the protocol will be kept under review in the light of experience and that there will be full consultation of Parliament about important issues as we move forward. The protocol is designed to be readily amendable.

Confidentiality is, however, central to our proposals. It is worth making the point that the bill will in effect widen what has been called the circle of confidentiality, which allows professionals to exchange information and to discuss matters confidentially as appropriate. The committee's suggestion about reinforcing the importance of that by including in the bill a duty of confidentiality is helpful. As Peter Peacock said, we will consider how we can respond to that as effectively as possible.

The committee also reflected concerns about whether a member of the joint inspection team who had been seconded from the police might be compelled to report an offence; some members

have taken up that issue today. We recognise that reassurance is required. It may be that the inclusion of the duty of confidentiality in the bill will deal with that, but we will consider whether further measures are required.

A variety of points have been made but, because of time limitations, I will have to cut short my remarks. Eleanor Scott mentioned the age under which we define a person as a child. We could have chosen a number of ages: different ages are used for different purposes, but we chose 18 because doing so puts the bill in line with other legislation, not least the Children (Scotland) Act 1995, and with policy developments on looked-after children.

The committee has asked for a concerted consultation and communication effort to be made. The time that was available for consultation on the bill was shortened, but at the end of the day the bill is about the process rather than the principle of inspection and, as Iain Smith said, there has been wide support for that.

The methodology for joint inspections was launched last November, when many senior officials from a variety of agencies attended workshops that were held across the country and a revised paper on the proposed methodology was issued. The development of the methodology has been a continuing process in which many people have been involved.

The quality indicators that the inspectors used and the pilot joint inspections employed a range of methods to obtain the views of children and young people. That has not been mentioned in the debate, but it is important to us that young people's opinions are sought, so we will continue to develop ways of doing that. From the discussions that I have had with young people, I am conscious of just how important it is to listen to youngsters in such situations and how much value that adds to the process.

The process of parliamentary scrutiny has been welcome. It has endorsed the fact that our policy of joint inspection as part of our wider approach to developing integrated services is absolutely right, and it has usefully highlighted, through proper and helpful recommendations, areas in which we can give reassurance and improve the bill.

We now have a sound basis for moving forward that will benefit all those who are interested in better services for children and, more important, the children who most need our support. That is the central point about the bill; a number of members touched on it in their speeches. I beg members to support the bill.

Violence Against Women

The Deputy Presiding Officer (Trish Godman): The next item of business is a debate on motion S2M-3670, in the name of Malcolm Chisholm, on violence against women. I call Johann Lamont to speak to and move the motion.

15:40

The Deputy Minister for Communities (Johann Lamont): As all members are aware, this debate is very important—some might even say that it is symbolic of the Parliament that we have at least an annual debate on violence against women. In highlighting the priority that Parliament places on the issue, the debate is an important symbol for us all.

Given our determination to secure change, the debate is, of course, not simply symbolic but practical, so in reflecting on its symbolism, we should be clear that holding it is not a matter of routine. In highlighting brutality against and the misery and exploitation of women in a debate on violence against women, we are not ticking some kind of emotional box, but reflecting on the challenges that lie ahead of Parliament, and society more broadly, in dealing with the issue.

We want to focus not only on what happens but on how we must deal with the problem. The figures can be overwhelming: we need to think only of the two women a week who are murdered by a partner or an ex-partner, or to reflect on the global exploitation, trafficking and prostitution of women and the use of rape as a weapon of war.

The debate is not a counsel of despair, however. In considering the issue, we should reflect not only on the challenges but on how far we have travelled. In terms of attitudes to domestic abuse in particular, we should reflect on how much further forward we are today than we were even 20 years ago. This issue is not about a domestic, in which the police and the judiciary have no particular role; nowadays, the police and the judiciary are actively and positively engaged.

I am pleased that we are again marking the United Nations international day for the elimination of violence against women and the 16 days of activism against gender violence campaign. I am delighted that not only is the Scottish Parliament marking the campaign but that a wide range of organisations and groups continue to show solidarity with women globally who experience violence. I congratulate all the women's groups and organisations, including the Scottish Women's Convention, and all those who over the years have made it their life's work to highlight this important issue. I had the privilege recently to meet people who serve on the domestic abuse helpline. If only

we could bottle their enthusiasm and energy, how much better we would all be for it. Across Scotland, a number of events, activities and meetings have been held to support the campaign. I was pleased to be invited to East Renfrewshire's walk against violence on Sunday. If there is one thing that all the activity has in common, it is a determination to support the message of this year's campaign, which is: for the health of women, for the health of the world, no more violence.

As I said, keeping violence against women on the agenda remains a priority for the Scottish Executive and we are making progress on a number of fronts. We are working to broaden our domestic abuse strategy, which is based around the themes of protection, prevention and provision, in order to address all forms of gender-based violence.

I will say a little more on that in a moment. Before I do so, I want to emphasise that, whether through a pilot project such as the domestic abuse court in Glasgow, through increased resources for development of support services for children and young people who experience domestic abuse in their homes, through an on-going commitment to awareness raising, or through specific support service funding, we remain determined to eradicate from Scotland violence against women. There is no single solution, so we will continue our commitment to fund a range of activity that supports the women who experience violence and which challenges the men who perpetrate it.

Support for service provision remains crucial. In October, we announced that we would be introducing a new violence against women fund to replace the existing domestic abuse service development fund and the violence against women service development fund. That decision was taken following consultation over the summer of a range of organisations, including the projects that currently receive funding, all multi-agency partnerships and the national group to address violence against women.

The consultation showed that, throughout Scotland, even in areas where there is a strong commitment from the health board, local authority and other partners, there remains a need to develop provision of front-line services to support women and their children. We have committed £6 million to that work from 2006 to 2008 and I am delighted that we have received more than 100 applications from a wide range of projects. Over the next month, we will assess them with a view to announcing the successful applications early in the new year.

We also want to work to build local capacity through multi-agency partnerships, so that we can strengthen local partners' ability to deliver on the

agenda. That is an area on which I want the national group to focus in the next couple of years—it will be supported by the new violence against women fund. We have decided to keep separate from the new fund the rape crisis specific fund, which is designed to support rape crisis services, which remain underfunded at local level. We must ensure consistent service development, so we have committed funding to every rape crisis centre in Scotland up to 2008.

In addition, we will continue our core funding for Rape Crisis Scotland and will work with it to develop it further. That work will include consideration of the need for new centres and specific support, which has been offered by the Justice Department to standardise the way in which information is recorded by the Scottish network of local rape crisis centres. The aim is to improve the accuracy and reliability of statistics on the nature and occurrence of rape and sexual violence, which will in turn assist with development and effective operation of services.

Mr Stewart Maxwell (West of Scotland) (SNP):

A great deal of domestic violence goes unreported. Unfortunately, it sometimes comes to light only when it results in serious offences, including murder. Given that, has the minister considered measures that are used in the United States of America, particularly in California, that require the medical profession, and especially hospitals, to report to the police any abuse that they encounter? That allows early intervention and gives women and families the support that they need to prevent further abuse.

Johann Lamont: I do not know the specifics of the measures, but I will be more than happy to examine the detail if Stewart Maxwell provides it.

It is clear that there needs to be partnership among a range of groups and organisations so that when they see things, they understand what is going on. People need training so that they are tuned in, for example, to what children say or to what women say in a general practice.

Many measures come together to support people, but we have to increase confidence that support will not make the situation worse. We need to get all the bits right. I gave the example that two women a week are murdered by their partners or ex-partners: there is a consequence of that. Somebody might take their hand away from the phone because they are not confident that they will be protected by the system if they report violence. We recognise the serious points that have been raised.

In talking about how things have changed, I want to take about rape. Cathy Jamieson, the Minister for Justice, has asked the Scottish Law Commission to review the current legislation. We

are examining the prosecution of rape and other sexual offences, and we are examining the effectiveness of the Sexual Offences (Procedure and Evidence) (Scotland) Act 2002. I mention that specifically because of the recent Amnesty International poll that highlighted all too starkly people's attitude to rape. While the advertising campaign on domestic abuse clearly struck a chord—a chord that is echoed in storylines in soap operas and elsewhere—and there has been progress, it was depressing to read the extent to which women are still blamed for being raped. It is important that we move on those attitudes, because they remain prevalent. Our challenge is to change the culture that allows such views to prevail.

We must build on the work and extend the scope of our awareness raising to other forms of violence against women. As I said, that is not a counsel of despair—it builds on the success of what already exists. It is recognised that there is underreporting of a range of incidents, but I am sure that through our commitment to the three Ps we can give people confidence that there is a point in reporting and challenging what happens to them, because when they go into the system they will be supported. I urge members to support the motion.

I move,

That the Parliament believes that the International Day of Action to Eliminate Violence Against Women and the 16 Days of Activism Against Gender Violence are vital in continuing to raise awareness of violence against women; supports the work of the Scottish Executive in seeking to challenge violence against women in its commitment to the new Violence Against Women Fund and the Rape Crisis Specific Fund; welcomes the work of the Scottish Law Commission and Crown Office to review the law on rape and its investigation and prosecution to ensure it is effective, fair and robust, and, in particular, supports all efforts to challenge the attitudes which place the blame on the woman and not the perpetrator, thereby allowing gender-based violence including domestic abuse, rape and sexual assault to continue.

15:49

Christine Grahame (South of Scotland) (SNP): I rise to speak to the amendment in my name and to support the motion and the amendment in the name of Margaret Mitchell.

I recognise the serious and sustained commitment of the coalition and Parliament to do all that politicians can to eliminate violence against women in all forms—physical, emotional, psychological and exploitive. I endorse the sentiments in the Conservative amendment. It acknowledges the invaluable work of charitable organisations such as Barnardo's, Rape Crisis Scotland, Scottish Women's Aid and others, which not only support victims—women and their children—but fund research and provide

invaluable briefings for politicians, for which I thank them.

However, in this short and unfortunately necessary annual debate, I will focus on the attitudes and the cultural environment that encourage young girls—let alone teenagers—who are nowhere near their teens to dress in a sexually provocative fashion, all in the interests of selling products. That is a difficult path to tread, because I could be accused of saying, “She asked for it because of the way she dressed.” She did not. I repeat: she did not. As the motion and my amendment say, such attitudes must be challenged constantly. They are the excuse of the cowardly and the ignorant and of those who assault, violate and degrade women by their actions. However, that is unfortunately not the view of a substantial percentage of the public. A recent poll revealed that 45 per cent of Scots think that a woman had a degree of responsibility if she was raped and had worn “sexy clothes”, and that 37 per cent think that she is totally or partially to blame if she was “flirty”.

I do not support those views at all, but they require us to consider the responsibility of the paper and electronic media which day in and day out, in public places that the eye cannot avoid or where there is no remote switch, present images of scantily clad or near-naked girls and women in overtly provocative poses. Such images, which can be found on bus shelters and bill boards or in the newspaper of a man sitting on the bus, are used to sell anything from TV programmes—think of the voyeuristic and titillating promise of live sex on “Big Brother”—to newspapers such as the *News of the etc*, to lawnmowers. Images of young girls are often the best selling aid.

Images of the female body beautiful have long been prevalent in the work of artists, photographers and film makers of the distant and recent past, both in erotic and pornographic depiction, but the sexploitation and dehumanisation of the female form have accelerated as a result of the electronic age, combined with commercialisation and mass consumerism. Our social environment is a heady breeding ground for the violator, the rapist and the exploiter of women.

There are magazines that would rob girls of their childhood and propel them into a premature sexually aware adulthood. Gone are the days when 10-year-olds teetered around in their mothers’ stilettos and played with lipstick and powder; now, the make-up for young girls is real and is marketed directly at them. I am thinking of magazines such as *Bliss*, which gives away make-up, shows 14-year-olds how to look 19 and entices girls to spend their pocket money with the promise of “a hot new body”. *Bliss*, which is the fastest-

growing magazine for young girls, has headlines such as “Be sexy, be sussed” and “Look 5 years older in 5 minutes”, for an article in which a 14-year-old undergoes

“a makeover which actually convinces an older boy she is 25.”

The magazine is estimated to have about 257,000 buyers, half of whom are under 15. However, despite criticism, its editor claims that it is

“providing a service to girls which is absolutely essential”.

How can that be when it has cover lines about a “pervy sex cult” and 21 pages of “sexy secrets”? It is no wonder that a recent BBC poll found that nine out of 10 adults want toughened controls on children’s publications that are seen to promote sex.

I repeat that the situation does not excuse for a moment any unwanted sexual or violent actions, but it creates a climate of dehumanisation of the female form. The ultimate extension of that perception of women is the sex-trafficking trade. Women are taken from small impoverished villages in, for example, Albania or Lithuania with the promise of au pair work or English lessons, are sold on to a brothel for a few thousand pounds and then sold on again and again, like cattle. Regrettably, when they are liberated, the women are returned to their countries, again like cattle. That is a blight on our society.

I am no Mary Whitehouse; indeed, I am very much a libertarian, but the commercialisation of sex and the sexploitation of women and young girls have come at a high cost to the many women who have been traded, raped, sexually abused or suffered other forms of violation. If the media cannot regulate themselves and be responsible for the consequences of their actions, politicians should seek to make them responsible.

I move amendment S2M-3670.2, to insert at end:

“, and further, in challenging the attitudes which place the blame on the woman and not the perpetrator, condemns the overt sexualised representation of young women prevailing in a range of publications, electronic or paper, driven by commercialism, which presents women as objects rather than individuals.”

15:54

Margaret Mitchell (Central Scotland) (Con):

An issue such as violence against women not only transcends party politics but unites individuals and groups around the world in a common purpose, namely the elimination of all forms of violence against women. The 16 days of activism campaign that is referred to in the motion has been used as an organising strategy by individuals and groups around the world to call for the elimination of violence against women. The campaign runs from

25 November to 10 December, which is human rights day. Among other things, it seeks to establish a clear link between local and international work to end violence against women and it provides a forum in which organisers can develop and share new and effective strategies.

Disturbingly, despite all efforts to raise awareness about violence against women, statistics clearly indicate an increasing trend in incidents of repeat domestic abuse victimisation. Data from January to December 2004 revealed 43,678 incidents of domestic abuse, of which a staggering 52 per cent involved repeat victims who were trapped in abusive circumstances. It appears that, despite best efforts, domestic abuse and violence against women is not only always with us but, more alarming, it is a growth industry. The issue is hugely complex and takes up vast amounts of police time. It is a problem that thrives on fear and secrecy, which is why the raising of awareness and strategies involving multi-agency work are so important in providing a framework to attempt to eliminate violence against women.

I wish to concentrate my remarks on a particular aspect of violence against women, namely domestic abuse and children. The report of the child protection audit and review, "It's everyone's job to make sure I'm alright", highlighted the fact that the general public trust voluntary organisations, which are in turn able to act as a bridge to families and statutory organisations. Crucially, the report states:

"Agencies and professionals need to ... recognise that protecting the mother may be the best way to protect the children"

and that

"Providing for the needs of children living in households with domestic abuse should be a priority for inter-agency planning".

The voluntary sector has a pivotal role to play in the attempt to eliminate violence against women. It has the advantage of being removed from and unconnected to statutory agencies, including local authorities, which for various reasons the public may be reluctant to approach. Too often, women and children who are subjected to domestic abuse find themselves with no option other than to flee the family home to escape violence. That brings me to the Conservatives' amendment, which seeks to emphasise that research confirms that the best outcome for women and children who are victims of domestic violence is when they can remain safely within their own home and community, with the continuity of support from family and friends.

The Executive has done much to ensure that that objective is achieved, but I turn the minister's attention to considering the enforcement of

tenancy agreements to ensure that they are not being breached by an abusive partner being allowed to move in or to come and go when he has no right to do so. Better regulation and enforcement of the terms of tenancy agreements could provide many victims and children with more protection and allow them to stay in the family home.

Finally, I earnestly request that the Executive reconsider its policy on automatic early release, which serves merely to shorten an unacceptable time for respite that victims have from jailed and violent partners, and which leaves those victims unnecessarily vulnerable. The Conservatives will support the motion and the SNP amendment.

I move amendment S2M-3670.1, to insert after "Rape Crisis Specific Fund";:

"recognises the expertise and contribution the voluntary sector can provide in dealing with domestic abuse; acknowledges that usually the best outcome for women and children is one where they can remain in the family home;"

15:59

Nora Radcliffe (Gordon) (LD): The United Nations international elimination of violence against women day on 25 November and the 16 days campaign that follow it are intended to help individuals and groups around the world to call for the elimination of all forms of violence against women.

There is no country in the world in which women are safe from violence. A World Bank report estimated that violence against women was as serious a cause of death and incapacity among women of reproductive age as cancer and a greater cause of ill health than traffic accidents and malaria combined.

Between a quarter and a third of all women in Scotland will experience domestic abuse at some point in their lives. Domestic abuse can and does happen anywhere. Therefore, the likelihood is that among our friends, family, colleagues and acquaintances are women who are subjected to domestic abuse. That we cannot identify them demonstrates the hidden nature of the problem and the importance of raising awareness, changing attitudes and encouraging women to come forward to seek help.

The first step in seeking help is usually confiding in someone else. The courage that is needed to take that first step should never be underestimated, and we should also remember that some encouragement is often necessary for it to happen. Thereafter, services need to be in place to help: counselling, support or somewhere to go. The contribution of the voluntary sector in that regard should be acknowledged and commended.

I want to say a word about the difficulties of providing accessible services in rural areas. The difficulties are not just practical ones of poor public transport or lack of access to a car or, for service providers, the high unit cost of service provision to small numbers. There are social and family barriers as well for women who live in small communities in which everyone is related to everyone else: who do they—who can they—turn to? It can be even more hazardous to make a move to get away from a place in which one's every move is visible. We should not forget that small communities can mean small ethnic minority communities within larger communities. The same difficulties apply to them.

A place of refuge is just part of what is needed. At this point in their life, women need help with the practicalities of their situation as well as emotional support and skilled counselling. The same goes in spades for children who are caught up in fleeing from domestic violence. They, too, need skilled help if they are to come through as unscathed as possible.

All those matters have to do with the aftermath, but prevention is better than cure. The briefing from the Zero Tolerance Charitable Trust highlights the fact that male violence is increasingly being recognised as a social problem.

The Deputy Presiding Officer (Murray Tosh): The member has one minute.

Nora Radcliffe: It has roots in social structures and cultural attitudes that have historically privileged men's needs over women's needs, thus creating the conditions for violence.

There is a huge job to do to shift social attitudes to domestic violence. In 1998, one out of two boys and one out of three girls thought that there were some circumstances in which it was okay to hit a woman or to force her to have sex. By 2005, an Amnesty International-sponsored poll showed that 28 per cent believed that women were partially responsible for being raped if they had behaved in a flirtatious manner and 20 per cent believed that women were partially responsible for being raped if they wore sexy or revealing clothing. We have not moved very far.

There has been a 10 per cent increase in the number of domestic abuse cases reported to the police since 2003, according to the report on recorded crime in Scotland 2004-05. If the increase in the reporting of this type of violent crime means that more people feel that it is worth reporting violence because they have confidence that it will be dealt with, that is a good thing. If more violent crime is being reported—

The Deputy Presiding Officer: I have to hurry you.

Nora Radcliffe: I have one more sentence. If more violent crime is being reported because more people find violence unacceptable, that means that the message that we are trying to send out about violence is beginning to reach its target.

There is no room for complacency. This debate illustrates how far we are—just in our own country—from our goals of eliminating violence against women. We should also reflect on the horrors that women face in war-torn parts of the globe—

The Deputy Presiding Officer: The member really must close.

Nora Radcliffe: I hope that what we do here to challenge and change attitudes and what is accepted will eventually have wider currency.

The Deputy Presiding Officer: We move to the open debate. Time is extremely tight, so members must stick to four minutes each if I am to get everybody in.

16:04

Marilyn Livingstone (Kirkcaldy) (Lab): In the short time that I have, I want to make particular reference to the effect that violence against women has on our children and young people. There is a substantial body of research that demonstrates both the scale of domestic abuse and the impact that it has on children and young people. I will highlight a few statistics that emphasise the scale of that impact.

Some 100,000 children in Scotland live with domestic abuse and 90 per cent of them are in the room or in an adjacent room during attacks on their mother. One third of those children try to intervene to protect their mother and many of them are injured during that attempt. Some 76 per cent of children who are ordered by courts to have contact with a violent parent are said to have been further abused as a result. The Barnardo's report "Bitter Legacy: the emotional effects of domestic violence on children" reveals that in 50 per cent of cases of violence between adults there is violence against children too.

The Scottish Executive has shown unquestionable commitment, support and leadership in relation to the gender-based violence agenda and the protection of our children and young people. I agree with the minister and others that the joint working approach has led to the implementation of innovative policies such as the national domestic abuse prevention strategy and refuges for women, children and young people.

In October 2004, the Scottish Executive published guidance notes for planners on children and young people who experience domestic abuse. It was agreed that Fife domestic abuse

forum's annual conference should focus on those guidance notes. The conference was seen as an ideal opportunity to develop an action plan that outlined the way forward and utilised the experience of the wide range of practitioners in Fife. I am pleased that Johann Lamont addressed the conference, which was held in April this year, and outlined the Executive's vision. At the conference, 120 professionals who work with children and young people in Fife—in both the voluntary sector and the statutory sector—identified key themes. From that, the Fife action plan was developed.

The Executive has announced funding for the development of specialist services. That is welcome. Partnerships throughout Scotland have the opportunity to apply for funding from the violence against women fund. In Fife, we will apply for funding for a children's co-ordinator and I hope that the application will be successful. A successful application for Executive funding enabled the appointment of a training co-ordinator in Fife. That will allow the working group on children and young people to develop appropriate training for service providers. I know that the minister will agree that such training is important. In speaking to key service providers locally, it has become apparent to me that we are managing to make a difference in terms of provision, protection and prevention. There are several factors at play and the partnership between the Executive and local bodies is crucial.

I am chair of the cross-party group in the Scottish Parliament on survivors of childhood sexual abuse, which has been working closely with the Executive on the issues that affect our communities. The group welcomes the establishment of the survivors reference group, which will help to take forward our agenda. I am also a member of the Fife domestic and sexual abuse partnership and I thank all the members of that group for their help and support, particularly Sheila Noble and Avz Crossley, whose innovation and commitment have helped to make such a difference.

Executive and local partnerships are crucial and, when they are effective, they can be powerful. Many challenges lie ahead but we must celebrate the road that we have travelled and, in particular, dispel the myths that surround abuse. Our generation has a great opportunity to protect today's children as well as to support yesterday's. Together, we can and must do that. I ask members to support the motion in the name of the minister.

16:08

Mr Kenny MacAskill (Lothians) (SNP): The minister is quite right to repeat on an annual basis that violence against women is entirely

unacceptable. There is no excuse for it—no one deserves a slap, let alone a serious physical or sexual assault—but sadly it is perceived by many as legitimate. However, we must place violence against women in a wider context. It is a cultural assault as well as a tangible physical assault and for that reason I am happy to support Christine Grahame's amendment.

Two particular points apply to the cultural aspect that overarches the incidents of violence that are perpetrated, whether at a minor level or at an extremely serious level, against women. There is the aspect that demeans and degrades women and there is also a culture that celebrates machismo in Scotland. Both are equally pernicious.

With regard to our amendment, it is clear that we have a culture that demeans and degrades women. In my view, pornography is the same situation as prostitution. I do not regard prostitution as a victimless crime; it is most certainly not that. I never subscribed to the position of some members on prostitution. I welcome the position that the Executive has taken, but I think that it should go further. Pornography is in the same category; my colleague Christine Grahame dealt eloquently with that matter. Pornography clearly views women as products. It undermines and degrades their position and views them almost as assets to be traded rather than as citizens to be respected.

In Scotland, there is a culture of violence that must be addressed. To some extent, it is a culture of machismo. I noticed that the papers referred to a speech that the Solicitor General for Scotland made earlier in the week. Sadly, the Executive website does not deal with her comments on that matter, but it deals with other points that were equally laudable. She is correct to say that there is a culture in Scotland that, to some extent, venerates the hard man. As a result, there is an overarching culture of violence.

Johann Lamont: Violence in Scotland is an important matter. However, does the member agree that despite the existence or absence of machismo in the cultures that exist across the world, violence against women is a common thread and that that is the challenge?

Mr MacAskill: Absolutely. I do not dispute that some cultures have less machismo than ours but still have the problem of violence against women.

Part of the root problem in Scotland is a perception that we are, to some extent, the Scottish hard man who participates in the extensive drinking that results in the knife culture and in going home and giving the wife a slap, or worse. I do not see the two aspects as mutually irreconcilable. If we are to address some aspects—if not all aspects—of violence against

women, we must address that culture of violence and machismo in which the hard man is venerated. Sadly, that happens in many instances, but there is an attempt to play it down. It is also part of common parlance and is viewed in television shows as something that is almost funny. We must address that. I accept the minister's point, but the two aspects are not necessarily irreconcilable.

Until we recognise the wider cultural aspect, we must oppose those aspects of our culture that demean and degrade women, such as pornography, prostitution and trafficking. We must also recognise that we have a serious cultural problem with violence. The culture in which we view ourselves as harder than our neighbours south of the border or elsewhere results in knife carrying, binge drinking and violence against women. As well as taking legislative action, we must address that cultural problem. That is why we are happy to support the motion as well as our amendment.

16:12

Cathy Peattie (Falkirk East) (Lab): The 16 days of activism against gender violence is now in its 15th year. Since 1991, approximately 1,700 organisations in approximately 130 countries have participated in that campaign. The campaign runs from 25 November, which is international day for the elimination of violence against women, to 10 December, which is international human rights day. There is a clear link between those days. Violence against women is a violation of human rights.

The 16 days include 1 December, which is world AIDS day, and 6 December, which is the anniversary of the Montreal massacre. In 1989, a gunman entered the École Polytechnique and killed 14 women, screaming, "I hate feminists." That is horrifying, but we should not forget that extreme gender violence is more common than many think. Every year millions of women are raped, and as many as 2 million are forced to undergo genital mutilation. The World Health Organisation reports that 70 per cent of female murder victims are killed by their male partners. Studies in the United Kingdom have found that at least one woman in four will experience domestic abuse at some stage in her life. The British crime survey 2004 suggests that that figure may be as high as 45 per cent. Nearly half of UK female murder victims—an average of two women a week—are killed by a male partner or former partner. One hundred and sixty-seven women are raped every day.

This year, the theme of the 16-day campaign is for the health of women, for the health of the world, no more violence. In that context, I am

pleased that the Parliament passed the Prohibition of Female Genital Mutilation (Scotland) Act 2005.

I welcome the fact that £3 million per year has been given to the violence against women fund, which replaces the two previous funds. That is in line with the adoption of a broader, more cohesive and more integrated approach to domestic violence against women.

The domestic abuse court pilot in Glasgow has now been running for more than a year and has halved the time that it takes for cases to come to trial. The ASSIST support service is a crucial element in providing support for witnesses throughout the process and the signs are good for those who would like there to be Scotland-wide implementation. I look forward to an early report and ask the minister to say when an evaluation of the pilot will be forthcoming.

Of course, there is no room for complacency and there are still gaps in provision. Section 27 of the Social Work (Scotland) Act 1968, for example, provides for the funding of perpetrator programmes such as those that are run by the Grangemouth-based Change organisation, the Safeguarding Communities-Reducing Offending Falkirk domestic violence project and the Lothian and Borders domestic violence probation project. However, there is no statutory funding for complementary work with people's partners and families and that undermines the value of the programmes. In the light of the Executive's desire

"to challenge the attitudes which place the blame on the woman and not the perpetrator",

I hope that it will ensure that that desire is reflected in the funding status of work with the families of perpetrators.

It is important that we are having this debate in the Parliament, but it is far too short and I would have liked to see more men here. Let me echo the campaign theme, which the Parliament should send out as a message: for the health of women, for the health of the world, no more violence.

16:16

Bill Aitken (Glasgow) (Con): As one of the men who are here, I underline the fact that the debate has been inspired by the international day of action to combat violence against women worldwide. We could be complacent about the current situation in Scotland when we see what happens worldwide—particularly in the Balkans, Africa and the middle east—but we would be doing ourselves absolutely no favours if we did not recognise that there is a problem of violence against women in Scotland, which is particularly manifested in domestic violence. We must consider that matter.

Over the past few years, the Executive and the Parliament have made sincere efforts to do something about violence against women, but it is clear that not enough is being done. In 2004, 52 per cent of victims who recorded domestic abuse reported that it was not the first time that they had suffered from domestic abuse. Victims are still finding themselves trapped in abusive situations and do not know where to turn to when the same thing happens over and over again.

The majority of studies show that most victims do not even know about the legislation that the Parliament has passed to help them. Some 87 per cent of women who were sampled in one survey had never heard of the Protection from Abuse (Scotland) Act 2001. That act and the Vulnerable Witnesses (Scotland) Act 2004 were passed unanimously in the Parliament to help victims of domestic violence, but they cannot reach their full potential until awareness of them is raised in the public. I am well aware of the good campaigns that have been run, but it is clear that they have not penetrated. Therefore, something must be done. A little more professional training of judges and police officers in particular is still needed, so that they can better understand the acts that the Parliament has passed and how best to use and enforce them.

There is a constant trend of violence in the context of Scottish lawlessness. Since 2000, overall crime has gone up by 15 per cent. We must recognise that and put things in context. Margaret Mitchell suggested that some of the current policies are affecting the trend.

Cathy Peattie mentioned the domestic abuse court in Glasgow, which has been running for the best part of a year. The jury is out on how successful it will be, and we will revisit that matter in due course. However, I point out that someone can have a summary conviction for assaulting their partner by punching and kicking them on the face and body, but even when there has been an analogous conviction—and possibly a previous custodial sentence—the maximum sentence for a summary complaint will be six months. If that is discounted by a third for the plea, the sentence can go down to four months and automatic early release can then mean that it can be discounted by 50 per cent. Therefore, a sentence of six months becomes two months. Frankly, I do not think that is an appropriate sentence for someone who assaults a woman in that way; the matter must be looked into. I accept that, in serious cases, the prosecution could proceed on indictment; nevertheless, with the current discounted sentencing, there is a lack of deterrence.

We can reflect on what we have done with regard to legislation. We can look at what we have

done with regard to campaigns. We are entitled to claim some credit, but we still have a problem and much more requires to be done.

16:20

Maureen Macmillan (Highlands and Islands) (Lab): I declare an interest as a director of Ross-shire Women's Aid. In the area that I represent, new refuges have been built and Highland Council, the Northern constabulary and the Procurator Fiscal Service have given their wholehearted commitment to treat domestic violence with the seriousness that it deserves. We have a zero tolerance campaign in the Highland region that addresses our rural situation.

One would think that society has accepted that domestic violence against women is unacceptable, yet refuges are still full and are still turning away women and children. Last year, 380 contacts were made at the Dingwall refuge and 104 women asked for refuge with their children, but only 12 women and their children could be accommodated. What more can we do to address the power imbalance in society that causes husbands, boyfriends and fathers to terrorise the women whom they should love and respect?

I recently overheard a young man on a train give the opinion that the best way of breaking off a relationship was to give the girl a punch in the face. The girls whom he was with laughed. What makes men want to lock women in cupboards, cut them with knives, beat them on unseen parts of their bodies, control their friendships and wider family contacts or threaten their children? How can we change attitudes that are so deep rooted?

Moreover, why is it so difficult to convict men of rape? Only 6 per cent of reported rape cases reach conviction, no matter that the Executive is making its best efforts to protect rape victims in court and is examining why convictions are so few and what it can do to address that. To many women, it still seems as though it is the woman who is on trial, not the man. Are juries reluctant to convict because of stereotyped ideas about appropriate behaviour in a woman and a stereotyped concept of what rape is? The findings of the recent poll have been mentioned.

At the weekend, I listened to a radio comedy show called "I'm Sorry I Haven't a Clue". The all-male panel were asked to add their own punch line to the public advertisement against binge drinking: "pretty girl, pretty drunk". The punch line that brought great clapping and cheers from the audience was, "Well, you'll be all right then." In other words, a man could have sex with her with no repercussions. Of course, it was just a laugh—a bit of fun. They did not really mean it. However, it produced a response in that sophisticated

middle-class Radio 4 audience that shows how deep rooted the attitude is in society—another pointer.

A procurator fiscal who was serving in a rural area once told me that he believed that there was a serious problem in the small communities with what he called low-level sexual violence. The young men insisted on having sex with their girlfriends and the girls just had to put up with it. No complaint was ever made. It is difficult to brave publicity in a small community by making an accusation of rape in such cases. Stereotypically, rape is seen as a heinous, violent crime that is committed by a stranger, and date rape goes unreported. The perpetrators are, after all, the boys whom those girls were at school with and their families know each other.

I have grave reservations about the ability of our adversarial system of justice to deal with rape cases, although I realise that that touches Scottish justice to the quick. Studies have found that, rather than seeking new information, the procurator fiscal tends to dismiss cases that are too weak. Therefore, perhaps we need a more inquisitorial approach. I wonder, too, whether we need other definitions or descriptions of rape if it is the word itself—with all its stereotyped connotations—that makes juries shy away from convicting the date rapist. People must accept the fact that rape, like domestic violence, is not about sex or love but about power and control.

Most of all, we need to address the inequalities of power that still exist between men and women and the double standards that colour society's views of women. We need to do that most urgently through our schools—I am sorry that the Minister for Education and Young People is not here. I am talking about not just one or two lessons in personal and social education, but an approach that permeates the curriculum. Highland Council is investigating how that might be done. We need to catch the minds of the young men and women who think that control and violence are acceptable before they reach their teenage years and long before they become the members of the juries who demur at convicting a man of rape.

16:24

Shiona Baird (North East Scotland) (Green):

In its recent campaign, Amnesty International asked us to imagine a world where women and girls are free from gender-based violence and discrimination, where women can fully participate in the political, economic and social life of their communities and where women and girls no longer have to fear violence or the threat of violence simply because they are women.

The Executive can be congratulated on the work that it has done on violence against women and

especially on the money that it has committed to domestic abuse campaigns and services. The domestic abuse agenda is now being broadened to cover gender violence against women. In particular, the national group will expand the prevention strategy on domestic abuse to include all forms of violence against women. That move is welcome because, although we must not lose sight of our focused work on domestic abuse, we must also ensure that there is a concerted effort to address all forms of violence against women and girls.

The three key pillars of our approach to violence against women and girls—prevention, protection and provision—must be dealt with in equal measure. I suggest that our prevention work is perhaps not as strong as it should be and that there needs to be a greater focus on the primary prevention of violence.

Only seven years ago, Zero Tolerance found that one in two boys and one in three girls thought that there were some circumstances in which it could be acceptable to hit a woman or force her to have sex. A significant minority of boys—36 per cent—thought that they might personally force a woman to have sex. More than one in two young people thought that women might provoke violence in a range of ways—for example, by the way in which they dress.

Just two weeks ago, Amnesty International published findings from its survey of public attitudes towards women who have been raped. It found that one in three people would blame a woman for being raped if she had flirted or had been drinking or because of the clothes that she was wearing. Seven years on, we still find those ingrained cultural attitudes towards violence against women. How can we achieve a world where women and girls live free from gender-based violence if such attitudes continue?

The root causes of violence against women are embedded in our social structures and cultural attitudes. If we accept that male abuse of power and male violence are social and cultural problems, we can change the situation. The mass media campaigns on domestic abuse have been successful. The work of the Tayside domestic abuse partnership between Barnardo's and Tayside police has been effective, too, as was revealed by the University of Dundee report "Behind Closed Doors".

However, such campaigns have a limited impact on changing attitudes. We need to balance them with educational work with children and young people in a range of settings, addressing all forms of gender-based violence. Just half of all local authorities have made the Zero Tolerance respect programme available, either wholly or in part, in primary and secondary schools. That is precisely

the kind of work that the Executive should ensure is being done in every school in Scotland. There is still much work to do before we can enjoy living in a world without violence against women and girls.

16:28

Elaine Smith (Coatbridge and Chryston) (Lab): During the past fortnight or so, there have been some concerning press reports on or around violence against women. The minister and others mentioned the Amnesty International opinion poll, the findings of which are frightening, as they illuminate the extent of the sexist blame culture that exists in our society. However, as other members have talked about the poll, I will not go into it.

A recent rape case in Wales showed how such attitudes can manifest themselves in the justice system. That case, which was heard in Swansea crown court, collapsed because the victim had blacked out from excess alcohol consumption at the time of the alleged attack and she could not remember saying no. The judge ruled that drunken consent was still consent, despite the fact that her alleged attacker was a security guard who had been entrusted to escort the girl to her flat because of concerns about her. The case was extremely worrying. There is no doubt that such decisions serve only to discourage women from reporting attacks.

Last week in Scotland, the owner of a Scottish Premier League football club openly blamed a 15-year-old girl—a child—for a sex offence for which a 41-year-old man was convicted. It astonishes me that someone with that kind of influence in Scotland has been able to make such a statement without any significant repercussions. I ask the minister whether the Scottish Executive can do anything about that.

I welcome the funding that has been announced today and the Scottish Executive's commendable record in tackling violence against women, but we need a more determined and robust approach. As Shiona Baird mentioned, that approach should be based on primary prevention. Earlier this year, the National Society for the Prevention of Cruelty to Children found that, within the United Kingdom, teenage girls in Scotland are at most risk from violence in relationships. Research from Zero Tolerance found that as many as 66 per cent of young people believe that girls can provoke violence and abuse because of how they dress and behave. The fact that such attitudes still prevail among our young people is extremely concerning.

As ministers will know—I have mentioned this to them time and again—the Zero Tolerance respect project provides us with a tool to move future

generations forward on the issue by changing people's attitudes. Having had demonstrable successes, with positive evaluations from both the Executive and the Home Office, the project has now been rolled out either fully or in part to, I think, 12 local authorities for use in primary and secondary education and in the informal youth sector.

Cathy Peattie: How would the member respond to a local authority that refused to adopt the respect project because it claimed that no such problem existed in its schools?

Elaine Smith: That is completely ridiculous and the local authority should reconsider its decision.

Despite its considerable achievements, the primary prevention approach that ZT has promoted seems to have been marginalised in favour of secondary prevention measures such as national advertising campaigns. Although such campaigns are undoubtedly worthy, they do not reach young people to the same extent as primary prevention measures do and they do not have the same potential to secure a lasting impact on societal attitudes. We need an equal focus on primary and secondary prevention measures if we are to effect profound and long-term change. I ask the minister to comment on that.

Given that the problem exists nationwide and can be found in every school, we need diverse solutions that are delivered locally but driven at a national level. That means that we need national funding of, for example, the roll-out of the respect project with different formats for different age groups.

Finally, we need more robust legal responses to rape and other acts of violence against women. Amnesty International's report states that, for instances of recorded rape, the conviction rate in Scotland fell from 6 per cent to 4 per cent last year. That drop followed Lord Gill's ruling, but I do not know whether that is a coincidence.

I had not intended to speak in today's debate as I felt that I might be in danger of repeating myself, but I believe that we all need to repeat ourselves until we sort out the issue once and for all.

16:32

Frances Curran (West of Scotland) (SSP): I agree with much of what other speakers have said in today's welcome debate, which is part of the ongoing process of challenging gender violence.

I want to make one point about funding before I make some points about culture. Since the launch in 1999 of the hugely welcome domestic abuse service development fund, voluntary sector bodies, local authorities and the national health service have developed strategies to support

women who face violence. However, all such strategies—including the new initiative that the minister presented—are currently funded through grant applications. Like those who work in the field, I believe that, if such work is to be strategic, it should be core funded. We need to ask why we do not provide core funding for such initiatives if we are serious about dealing with the issue in a strategic way.

In my remaining three minutes, I want to deal with the issues of culture and prevention. Having put in resources to tackle the issue on the ground by providing support to women, the Parliament must now challenge and take on the culture that women, especially young women, now face. I could not agree more with Christine Grahame's comments on the images of women. So-called lads mags are not found on the top shelf, yet they contain pornographic images. The fact that such magazines are allowed to promote a culture in which it is permissible to view women in such a way is the reason why we receive such surveys from Amnesty International.

For me, the central question is how we as a Parliament tackle that situation. Where do we start? At a recent public event in Scotland, a woman complained about police officers reading a pornographic magazine on duty. Her complaint was taken up by the police. Afterwards, the following statement appeared in the magazine, which is considered to be not a pornographic magazine but a lads mag. Someone told the magazine about the incident and it responded as follows:

"Strathclyde Superintendent Jeanette Joyce made two brave policemen undergo counselling because of their love"

of the magazine. The statement continues:

"Cue revenge. And although we are big fans of violence, we've opted to nigger"

the woman

"in a peaceful manner because we know it will rile her intensely."

The magazine is sold to hundreds of thousands of young men, but its editor thinks that it is okay to print the statement that I have cited. What will the Parliament do about that? The salient point is that, at a public event, on-duty policemen were reading a magazine in which such attitudes are expressed. The police took action, which is welcome. The magazine is now attacking the woman who made the complaint; it thinks that that is acceptable. Surely the magazine, which is on sale all around Edinburgh today—not on the top shelf—to young men between the ages of 16 and 25 should be subject to our laws. However, it is allowed to print such statements.

If we cannot change the culture by persuasion, we must persuade it by law, by discipline and by

saying that such things are not acceptable in public bodies and from public workers in our country. We must consider how we can raise the issue and move on the debate in order to hold men accountable for their attitudes and behaviours towards women. Far too often, women end up as the victims when they challenge such behaviour. This is a test case for us. I will write to the minister and others involved to ensure that we get an answer.

16:37

Margo MacDonald (Lothians) (Ind): I will confine my remarks to one aspect of violence against women. The expert report on prostitution has as a stated objective

"To influence the attitudes which lead to the abuse of women sexually and physically through prostitution."

I am happy that the Executive has taken that on board. It should be congratulated on adopting a sensible, caring approach to how best it can exert influence. The Deputy Minister for Justice has indicated that he sees no reason to distinguish violence against that group of women from violence against any other group of women and that he will expect local agencies to instigate local awareness-raising initiatives that mirror the Executive's guidance on managing prostitution and exercising a duty of care towards street prostitutes.

It is proved beyond doubt that street prostitutes are at greater risk of experiencing violent attack, although the experience of the managed or tolerance zones in Aberdeen and Edinburgh indicates that there is a higher level of protection from violence if women are working in an area that incorporates security measures such as suitable surveillance by police or security cameras and a closely sited drop-in centre. The statistics from Edinburgh appear to bear that out. In the last full year of the managed or tolerance zone, there were 11 reports of violence against prostitutes—less than one a month. In the first three months without a zone, there were exactly the same number of reports of violence as in the entire previous year. I think that, statistically, the increase in the number of violent attacks on women working as prostitutes in Edinburgh has been more than 1,000 per cent.

The difference between the levels of violence experienced by indoor and outdoor sex workers shows the advisability of managing the business in order to reduce harm and the violence that people selling sex can experience. A study of indoor and outdoor workers in Leeds, Glasgow and Edinburgh has been carried out. Eighty-one per cent of street sex workers reported violence, as opposed to 48 per cent of indoor sex workers. Fifty per cent of street workers reported violence in the previous six months, as opposed to 26 per cent of indoor

workers. Forty-four per cent of street women who had experienced violence had reported the crimes, whereas only 18 per cent of indoor workers reported a crime. The case appears to have been made for a duty of care to be exercised towards prostitutes, if we mean to reduce the harm that is done to them while they are prostitutes. I have spoken only about harm reduction, but most people would like prostitutes to exit prostitution. Much of the Executive's plan is geared towards that.

Attitudes towards violence against women must be changed, as many members have said. Although the Executive, like those who have spoken today, advocates local initiatives through schools and community education to educate people out of the attitude that violence against women is only to be expected, how can that possibly win the battle—I was going to say for hearts and minds, but I think that that is the wrong expression—to influence opinion in face of something such as the popular computer game "Grand Theft Auto: Vice City", which is sold over the counter and in which prostitutes are killed? I do not want to ban or proscribe anything, but if we can say that we will not sell fireworks to people under a certain age, surely we can say that we will not sell games that make fun out of killing prostitutes.

16:41

Mary Scanlon (Highlands and Islands) (Con):

This has been a consensual debate in which many new issues about domestic abuse have been raised, in comparison with previous debates. I am pleased to support Margaret Mitchell's amendment, as well as the Executive motion and the SNP amendment. Margaret Mitchell's amendment highlights the fact that the best outcome is for women and children to stay in the family home, where they can remain safely with continuity of support from family, friends, peer systems and agencies, including schools.

There is no doubt that stability in the family home is welcome during traumatic times in a family. However, in the circumstances that we are debating today, if the mother and children wanted to stay safely in the family home—an idea to which we are all signed up—the father would have to leave. There is a concern that the current housing shortage could be an obstacle to the abuser leaving home. Even if the man were fully aware of his offending behaviour and knew that he needed help and that the family needed time apart from him, where would he go? That is my question to the minister.

In the Highlands, the man would join nearly 2,000 others who are designated as homeless. Margaret Mitchell mentioned tenancy. If the man

were to pass the tenancy of the home over to his wife or partner and moved out, whatever the circumstances of the break-up of the relationship, he—as happens to many men—might still be living in a single-room bedsit a decade later with no possibility of access to his children because of the lack of accommodation for overnight stays.

Whether the violence is physical, verbal or of any other kind, its effect on the children in the family carries through into their adult lives.

The Scottish Executive document "Violence Against Women: A literature review" is excellent, but the point is highlighted throughout that, although much good work is happening in Scotland, it is largely undocumented. More research would provide better evidence on which to base and share good practice. The literature review highlights the need to share best practice in data collection across agencies, as that could provide links between dealing with violence against women and homelessness, for example. The review also says that we need more understanding of interagency response, child protection and substance abuse.

Many members today have highlighted the statistics on domestic abuse, so there is no need for me to say much more on that. The increase in the figures in the statistical bulletin could be attributed to more accurate recording and the fact that more women are speaking out, or it could mean that the incidence of domestic violence is increasing. I know that that is difficult to judge, so more research would be useful.

Nora Radcliffe spoke about hidden abuse. Like Maureen Macmillan, I commend the work of the Highland wellbeing alliance, which has pointed out that only 36 per cent of women ever tell anybody about abuse and that only between 2 and 18 per cent of domestic incidents ever come to the notice of the police. Nora Radcliffe also mentioned rural areas. We should ask why the figures for recorded domestic abuse in Edinburgh are eight times higher than the figures in Orkney and Shetland. That is food for thought.

16:45

Ms Sandra White (Glasgow) (SNP): The debate is timely, not only because of the international 16 days of activism but because it is the start of the festive season. Domestic violence, or violence against women, rises at this time of year, which is unfortunate. I hate the phrase "domestic violence" because violence is violence regardless of whether it is perpetrated in the home or elsewhere. I hope that people will remember that.

I ask the Executive whether it will use the debate as a springboard for a media campaign against

violence against women in the lead-up to Christmas and the new year. It has done that in the past.

At the Public Petitions Committee this morning, we heard moving evidence from Hazel Reid, who had been a victim of domestic abuse. Her husband ended up being charged with attempted murder. His sentence was three years in jail—and, obviously, he got out on early release. Even more harrowing is the fact that, when Hazel Reid tried to find out under the victim notification scheme when her husband would be released, she was told that she had no right to find out. Unless the sentence is more than four years, people have no right to find out the release date. The police cannot find out either. The victim notification scheme really has to be revisited. If someone has perpetrated that type of violence—attempted murder—they should get more than three years. All violent assailants should be given sentences that fit the crime. Once again we see how the judiciary seems to look on violence against women as a lesser crime.

Margaret Mitchell: If not the ending of automatic early release for crimes of violence across the board, would the member support the ending of automatic early release for violent criminals in the circumstances that she has described?

Ms White: I do not support automatic release but I am talking about the notification scheme. People should be able to access information on release dates. I ask Margaret Mitchell to bear with me while I go on to a point that Elaine Smith raised. She spoke about rape crimes—another example of the judiciary not taking crimes as seriously as it should.

I welcome the minister's announcement of the new violence against women fund, although I share Frances Curran's concerns. I hope that as many groups as possible will benefit from the fund. My colleague Christine Grahame, Shiona Baird and others have spoken of disturbing statistics. Forty-five per cent of people believe that women who wear what are described as sexy clothes are in some way responsible if they are raped. We must educate not only men but women that such attitudes are not acceptable. Young and old people must be educated so that they know that, just because a woman was wearing clothes that, in their perception, were sexy, she did not deserve to be raped.

Marilyn Livingstone and others said that it is not only women who suffer but children, families and, in the end, society as a whole. As Nora Radcliffe said, we must change attitudes and the culture before we can address this issue. As Kenny MacAskill said, it is just not good enough that there is this macho attitude that it is all right for a man to beat his wife or mentally abuse her. The

problem exists not only in this country but in others too. We have to make people realise that such an attitude is totally unacceptable. The Parliament must reinforce that message.

I ask that both the amendments to the motion be agreed to. The way in which women are portrayed in the media has been mentioned. It results in violence against them. Margaret Mitchell mentioned the support of Barnardo's allowing women and children to remain in their own homes. I agree that they should be allowed to remain in their own homes, and their own communities, but only if they choose to do so.

16:49

The Minister for Communities (Malcolm Chisholm): As Cathy Peattie reminded us, extreme gender violence is much more common than many people think. In recognition of that, the Executive has made delivering on the domestic abuse strategy a high priority and is now making the wider work on violence against women a similarly high priority.

During the debate, the term "culture" has been widely used, but the fundamental cultural point is that we must understand the underlying causes of violence against women, which are rooted in gender inequality and, as Maureen Macmillan reminded us, inequalities of power.

The SNP amendment refers to a particular aspect of violence against women. We accept that commercial sexual exploitation is a form of violence that is predominantly directed towards women. The amendment identifies the normalisation of women as sexual objects rather than individuals. Of course we condemn that and accept the amendment.

Margaret Mitchell's amendment rightly emphasises the key part that the voluntary sector plays, not only in delivering much-needed services, but in working in partnership with the Executive to develop policy. Scottish Women's Aid, Rape Crisis Scotland and many local bodies such as the women's support project, Women's Aid groups and rape and sexual assault centres make an immeasurable contribution, to which I pay tribute.

On the second part of Margaret Mitchell's amendment, the key is to acknowledge that giving women choice over where they are accommodated and ensuring their safety and that of their children are the two fundamental drivers. In many cases, giving them such choice will mean that they remain in, or return to, the family home. That is not always the case but, having given that proviso, I am happy to accept Margaret Mitchell's amendment.

I will deal with the three Ps of protection, provision and prevention, in that order. Cathy Peattie and Bill Aitken referred to the domestic abuse court in Glasgow, on the recent first anniversary of which I was pleased to speak at a conference. The successes of that court are already evident. It has resulted in increased multi-agency working, especially among the police, procurators fiscal, the ASSIST project and other voluntary organisations. Another success has been the fast-tracking system, whereby all cases are heard within six weeks. In addition, there has been an increase in guilty pleas, both at the outset and at the intermediate trial stage. Overall, the court has had a highly positive impact on people who experience domestic abuse. I heard a heart-rending comment from a woman that is testimony to the success of the court:

"I have suffered over 40 years of abuse and rang the police for the first time after reading about ASSIST and the DA court in the paper."

Bill Aitken said that people had not heard about the Protection from Abuse (Scotland) Act 2001, but the act is widely used and the evidence suggests that there is a high level of awareness of it among lawyers. In the written evidence that the Law Society of Scotland recently submitted to the Justice 1 Committee, it said that the 2001 act was the principal and most widely used piece of legislation containing powers of arrest.

Maureen Macmillan mentioned the many problems to do with rape convictions. It was because of those problems that Cathy Jamieson asked the Scottish Law Commission to undertake a review of the current legislation and to make recommendations based on its findings. The discussion paper that will form the basis of the consultation on that issue is almost complete—we hope that it will be released in January 2006 and that the recommendations will follow in 2007. The Crown Office and Procurator Fiscal Service is undertaking its own review of the prosecution of rape and other sexual offences and of the evidence that is required in such cases.

We will soon be considering legislation on prostitution, which Margo MacDonald spoke about. We believe that with prostitution, as with any other form of commercial sexual exploitation, we must ensure the protection of the women who are involved in it and must understand why their involvement has come about. However, as well as supporting those women, we must challenge men who believe that it is acceptable to purchase sex from vulnerable women and make them understand that their behaviour falls firmly within the spectrum of violence against women.

I move on to service provision. In the first half of her speech, Marilyn Livingstone majored on children. Over the next two years, the allocation of

£6 million will increase the number of workers in Women's Aid groups and will allow outreach work to develop for the many children and young people who live with domestic abuse but do not come into contact with refuge. That will help with the achievement of the objectives of Margaret Mitchell's amendment.

Marilyn Livingstone also referred to the sexual abuse reference group. Obviously, work on sexual abuse also relates to the violence against women agenda and an announcement was made fairly recently on a £2 million survivors fund.

Frances Curran raised funding, too. The domestic abuse service development fund and subsequent violence against women service development fund were introduced in recognition of the much-needed support for local service provision and to ensure greater consistency and higher-quality provision across Scotland. Of course, funding will be considered in examining how support is developed. We intend to undertake a strategic review of violence against women funding to inform our decisions about how best to proceed in the next spending review period.

Mary Scanlon emphasised the importance of homelessness services, given the number of people who are homeless in areas such as the Highlands. Recently, I visited an excellent new project in Glasgow that provides a service during the night for women who have to flee domestic abuse. It is an extension of the homelessness services that are available in the city.

I turn to the issue of prevention, which featured strongly in the debate. I am pleased to tell Sandra White that we will be running a further campaign this Christmas with new television and radio advertising. We will also use other media platforms to support our messages, which will include work that will be targeted specifically at young people in both primary and secondary education.

As Elaine Smith reminded us, media work is not sufficient on its own. In common with Shiona Baird, Nora Radcliffe and Maureen Macmillan, she emphasised the importance of work in schools. The Executive has provided support to a variety of organisations to help them to produce education packs for use in schools. Elaine Smith mentioned the respect pack, which is produced by the Zero Tolerance Charitable Trust as part of its respect campaign. The Executive has contributed significant funding to the campaign pack, which is exactly the kind of material that is needed in schools. It is only through educating children and young people about what is acceptable that we can expect some of the more worrying trends and perceptions around the acceptability of violence to change.

Shiona Baird: As I pointed out, only half of schools have taken up Zero Tolerance's respect project. How can the Executive ensure that all schools take it on board?

Malcolm Chisholm: I am a great supporter of Zero Tolerance's work in general and of its respect pack in particular and in this context. However, we must recognise that other material is being produced on the subject and we cannot be too prescriptive in that sense. Certainly, I would encourage all schools to use the respect material or its equivalent.

Shiona Baird and other members highlighted the recent Amnesty International UK poll, which showed all too starkly people's attitudes to rape. The matter featured prominently in the debate. The poll made it abundantly clear that not only did respondents underestimate the scale of the problem but, rather than blame the perpetrator in each and every case, they felt it right to apportion blame to the woman. The Executive absolutely abhors that view, which is why the last sentence of our motion highlights the issue.

I join Elaine Smith in condemning what the particular football manager said in relation to the 15-year-old girl being blamed. On specific action, apart from saying what I have just said, there is nothing else that we can do about that.

Our domestic abuse campaigns have had a significant impact over the past few years. Evaluations show a continuously higher level of awareness and understanding of the messages. However, we must build on that work and extend the scope of our awareness raising to tackling other forms of violence against women. Of course, we must challenge the attitudes towards rape that were highlighted in the debate. The national group to address violence against women has established a sub-group to consider the way forward so that we can develop a more comprehensive media strategy over the coming months.

Last week, I spoke at an event in the House of Commons that was hosted by the Women's National Commission, Amnesty International and the Trades Union Congress. I am sure that members will be pleased to hear that it was the work that is being done in Scotland that was held up for praise; the work that is being done in other parts of the United Kingdom came in for some criticism. I say that not in the spirit of complacency; we should recognise the progress that we have made but, given what we have heard this afternoon, we must all redouble our efforts, because there is a great deal more to do.

Business Motions

The Presiding Officer (Mr George Reid): The next item of business is consideration of business motion S2M-3692, in the name of Margaret Curran, on behalf of the Parliamentary Bureau, on a suspension of standing orders.

Motion moved,

That the Parliament agrees that—

(a) for the purposes of allowing the meeting of the Parliament on Thursday 15 December 2005 to continue beyond 5.30 pm, the word "Wednesday" in Rules 2.2.4 and 2.2.5(c) be suspended and that the word "Thursday" be substituted for it in each place, and that Rule 2.2.5(a) be suspended;

(b) under Rule 2.2.4 thus varied, the meeting of the Parliament on Thursday 15 December 2005 may continue to 7.00 pm; and

(c) Decision Time on Thursday 15 December 2005 shall begin at 6.30pm.—[*Ms Margaret Curran.*]

17:00

Bill Aitken (Glasgow) (Con): We do not seek to block the business motion, because its purpose is to allow appropriate legislation to be dealt with next week. However, I reserve the right to object most strongly to the way in which the matter has been handled. The entire business for next week was agreed yesterday at the Parliamentary Bureau. Yesterday evening, we received telephone calls to the effect that this change was necessary. That is not a satisfactory way in which to proceed. I hope that there will be no similar cause for complaint in future.

17:01

The Minister for Parliamentary Business (Ms Margaret Curran): I thank Bill Aitken for alerting me to the fact that he would raise the issue. In the best of worlds, I would have preferred to give the bureau notice, but prior to the bureau meeting, I had not received representations from the legislation team on the need to extend the time for the bill, otherwise I would have raised the issue.

It feels as if I cannot win in this situation. If I had not given enough time, members would have complained; but when I do provide more time, some members are not happy. I lodged the motion—which all other business managers are satisfied with—because we will be discussing a matter of substance next week. I am well aware of the range of members' views on the Family Law (Scotland) Bill, and it is vital that we give it appropriate time. During previous stage 3 debates, members have said that there was not enough time. I thought it best to err on the side of caution and to give members time to discuss the issues of substance on which they must make appropriate decisions.

Motion agreed to.

The Presiding Officer: The next item of business is consideration of three business motions, in the name of Margaret Curran, on behalf of the Parliamentary Bureau: motion S2M-3693, on a suspension of standing orders; motion S2M-3689, setting out a business programme; and motion S2M-3679, setting out a timetable for legislation.

Motions moved,

That the Parliament agrees that Rule 5.6.1(c) of Standing Orders be suspended for the purposes of Members' Business on Thursday on 15 December 2005.

That the Parliament agrees the following programme of business—

Wednesday 14 December 2005

2.30 pm	Time for Reflection
<i>followed by</i>	Parliamentary Bureau Motions
<i>followed by</i>	Ministerial Statement: Energy Performance of Buildings Directive
<i>followed by</i>	Stage 1 Debate: Interests of Members of the Scottish Parliament Bill
<i>followed by</i>	Business Motion
<i>followed by</i>	Parliamentary Bureau Motions
5.00 pm	Decision Time
<i>followed by</i>	Members' Business

Thursday 15 December 2005

9.15 am	Parliamentary Bureau Motions
<i>followed by</i>	Stage 3 Proceedings: Family Law (Scotland) Bill
11.40 am	General Question Time
12 noon	First Minister's Question Time
<i>followed by</i>	Members' Business
2.15 pm	Themed Question Time— Enterprise, Transport and Lifelong Learning; Justice and Law Officers
2.55 pm	Conclusion of Stage 3 Proceedings: Family Law (Scotland) Bill
<i>followed by</i>	Motion on Animal Welfare Bill – UK Legislation
<i>followed by</i>	Parliamentary Bureau Motions
6.30 pm	Decision Time

Wednesday 21 December 2005

2.30 pm	Time for Reflection
<i>followed by</i>	Parliamentary Bureau Motions
<i>followed by</i>	Executive Business
<i>followed by</i>	Business Motion
<i>followed by</i>	Parliamentary Bureau Motions
5.00 pm	Decision Time

followed by Members' Business

Thursday 22 December 2005

9.15 am	Parliamentary Bureau Motions
<i>followed by</i>	Scottish Socialist Party Business
11.40 am	General Question Time
12 noon	First Minister's Question Time
2.15 pm	Themed Question Time— Education and Young People, Tourism, Culture and Sport; Finance and Public Services and Communities
2.55 pm	Executive Business
<i>followed by</i>	Parliamentary Bureau Motions
5.00 pm	Decision Time
<i>followed by</i>	Members' Business

That the Parliament agrees that the timetable of consideration of the Council Tax Abolition and Service Tax Introduction (Scotland) Bill at Stage 1 be extended to 3 February 2006.—[Ms Margaret Curran.]

Motions agreed to.

Parliamentary Bureau Motions

17:04

The Presiding Officer: The next item of business is consideration of two Parliamentary Bureau motions. I ask Margaret Curran to move motions S2M-3675 and S2M-3676, on the approval of Scottish statutory instruments.

Motions moved,

That the Parliament agrees that the Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (West Coast) (No. 15) (Scotland) Order 2005 (SSI 2005/575) be approved.

That the Parliament agrees that the Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (West Coast) (No. 16) (Scotland) Order 2005 (SSI 2005/579) be approved.—[*Ms Margaret Curran.*]

The Presiding Officer: The questions on those motions will be put at decision time.

Decision Time

17:04

The Presiding Officer (Mr George Reid): There are five questions to be put as a result of today's business. The first question is, that motion S2M-3629, in the name of Peter Peacock, that the Parliament agrees to the general principles of the Joint Inspection of Children's Services and Inspection of Social Work Services (Scotland) Bill, be agreed to.

Motion agreed to.

That the Parliament agrees to the general principles of the Joint Inspection of Children's Services and Inspection of Social Work Services (Scotland) Bill.

The Presiding Officer: The second question is, that amendment S2M-3670.2, in the name of Christine Grahame, which seeks to amend motion S2M-3670, in the name of Malcolm Chisholm, on violence against women, be agreed to.

Amendment agreed to.

The Presiding Officer: The third question is, that amendment S2M-3670.1, in the name of Margaret Mitchell, which seeks to amend motion S2M-3670, in the name of Malcolm Chisholm, on violence against women, as amended, be agreed to.

Amendment agreed to.

The Presiding Officer: The fourth question is, that motion S2M-3670, in the name of Malcolm Chisholm, on violence against women, as amended, be agreed to.

Motion, as amended, agreed to.

Resolved,

That the Parliament believes that the International Day of Action to Eliminate Violence Against Women and the 16 Days of Activism Against Gender Violence are vital in continuing to raise awareness of violence against women; supports the work of the Scottish Executive in seeking to challenge violence against women in its commitment to the new Violence Against Women Fund and the Rape Crisis Specific Fund; recognises the expertise and contribution the voluntary sector can provide in dealing with domestic abuse; acknowledges that usually the best outcome for women and children is one where they can remain in the family home; welcomes the work of the Scottish Law Commission and Crown Office to review the law on rape and its investigation and prosecution to ensure it is effective, fair and robust, and, in particular, supports all efforts to challenge the attitudes which place the blame on the woman and not the perpetrator, thereby allowing gender-based violence including domestic abuse, rape and sexual assault to continue, and further, in challenging the attitudes which place the blame on the woman and not the perpetrator, condemns the overt sexualised representation of young women prevailing in a range of publications, electronic or paper, driven by commercialism, which presents women as objects rather than individuals.

The Presiding Officer: The fifth question is, that motions S2M-3675 and S2M-3676, in the name of Margaret Curran, on the approval of Scottish statutory instruments, be agreed to.

Motions agreed to.

That the Parliament agrees that the Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (West Coast) (No. 15) (Scotland) Order 2005 (SSI 2005/575) be approved.

That the Parliament agrees that the Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (West Coast) (No. 16) (Scotland) Order 2005 (SSI 2005/579) be approved.

A76

The Deputy Presiding Officer (Trish Godman): The final item of business is a members' business debate on motion S2M-3520, in the name of Alex Fergusson, on the case for improvement of the A76. The debate will be concluded without any question being put—*[Interruption]*—and, I hope, with a lot less noise from members who are leaving the chamber.

Motion debated,

That the Parliament notes with regret the two recent deaths on the A76 in separate incidents north of Sanquhar and near Auldgirth; recognises that the upgrading of the A77 to motorway standard from Glasgow to Kilmarnock has brought about a steady increase in the amount of traffic using the A76; notes that there have been three deaths in five years on the same stretch north of Sanquhar which would have been upgraded by now had the Scottish Executive not shelved plans agreed in the route action plan in favour of an easier option south of Sanquhar; recognises the formation of the A76 Action Group, and considers that the Executive should identify priority stretches of the A76 for urgent upgrading on safety grounds before further lives are lost.

17:07

Alex Fergusson (Galloway and Upper Nithsdale) (Con): I thank the members who supported my motion—they are not many in number, but they all recognise the real problems to which the motion refers, which are all too tragically highlighted by the recent death of an eight-year-old schoolboy whose school bus was involved in an accident with a lorry on a stretch of the A76 that was being resurfaced. That awful accident took place three weeks after the motion was lodged.

I lodged the motion following two separate incidents that took place during our October recess, both of which claimed a life. I entitled the motion "The Case for Improvement", because there is no doubt in my mind that a strong case can be made. As we have now witnessed five deaths in five years on the section of the A76 that runs through my constituency, I welcome the opportunity to put that case. I hope that I will be forgiven for concentrating on the southern half of the route, which runs through Dumfries and Galloway. My reasons for doing so are well laid out in the A76 route action plan, which was last updated in October 1996. That document states:

"The assessment has shown that the majority of the A76 in East Ayrshire is largely to a reasonable geometric standard. Once into Dumfries & Galloway, there is a marked deterioration in geometric standards".

It continues:

"The Geometry of the route largely dictates the level of service which is available to drivers. Where the road is to a reasonable standard, as in much of East Ayrshire, journey

times are faster and more reliable due to there being frequent opportunities to overtake slow moving vehicles. The converse is the case in much of Dumfries & Galloway where journey times are slower and frustration often builds due to the lack of overtaking opportunities”.

No member who knows the route would argue with that, yet I am sorry to say that not one action has been taken since 1996 to change the situation.

Action needs to be taken on the A76, if for no other reason than that the nature of traffic flow and traffic type is changing rapidly. The figures show a fairly steep rise in vehicle numbers in the past two years. I am not surprised by that, because I have suggested on several occasions that upgrading to motorway standard of the A77 from Glasgow to Kilmarnock—which is at the northern end of the A76—would have a significant impact on the A76, because it is an alternative route not just to Dumfries, but onward to England. That has proved to be the case. Of course, there has been an equal increase in northbound traffic. The increase has had a huge impact, not just on the road, but on the communities in my constituency that straddle it, such as Kirkconnel, Sanquhar, Menzies, Carronbridge, Thornhill and Closeburn.

However, another factor is highly significant in the argument. The Scottish Executive's transport statistics show that the percentage of the vehicles that use the route that are heavy goods vehicles is the fourth highest in Scotland for that type of road: 18 per cent over a seven-day period and 21 per cent Monday to Friday. In other words, one in every five vehicles is an HGV thundering up or down a road which, according to the route action plan, shows

“a marked deterioration in geometric standards”

in Dumfries and Galloway. Furthermore, all predictions are that traffic flow will increase by some 25 per cent by 2012.

On road safety, the action plan—which we should bear in mind was written almost 10 years ago—noted that a section between New Cumnock and Sanquhar exhibited a higher accident rate than the national average, but that remedial measures were believed to be having a significant effect on the level of accidents on that stretch. I respectfully suggest that five deaths in five years, three of which have occurred on the same stretch just north of Sanquhar—on which, apparently, remedial measures have been taken—indicates an urgent need for a fresh approach to the mounting problems on the route. Such an approach is long overdue.

It is the easiest thing in the world for MSPs to leap up and down and demand a dual carriageway from end to end of any given road in their constituencies; others may wish to make that argument, but it is not what I seek because I

realise that it is completely unrealistic. However, I strongly suggest that much could be done at reasonable cost to arrest the rapid decline in the safety record of the route.

One of the route's main problems is that although there are several straight sections on which overtaking is entirely possible in the right conditions, they are all too often interspersed with sections of sharp bends and rises and falls, which can take unsuspecting drivers—even, sometimes, suspecting drivers—by surprise. That is exacerbated by the frustration to which the route action plan refers and which, in itself, is increased by the unusually high number of temporary traffic lights between Kirkconnel and Dumfries—seven sets at my last count—and which seems to increase every time one visits the route. All those lights do is increase platooning and the consequent frustration that queuing traffic—20 per cent of which, I remind members, is HGVs—inevitably incurs.

The three deaths just north of Sanquhar took place on a stretch of road that would have been upgraded by now had not the Executive withdrawn the plans at a late stage and with no notice three or four years ago. Instead, a dedicated three-lane overtaking opportunity is to be created south of Sanquhar on a stretch that already allows overtaking under the right conditions. I can only conclude that that decision was taken on the ground of cost. As my motion suggests, I believe that such decisions should instead be taken with safety as the primary consideration. I do not seek a motorway or a dual carriageway, but I hope that I have shown that there is a need to take action. I ask that the route action plan be revisited urgently in the light of the latest traffic figures, and that priority upgrading be redefined on safety grounds.

I also believe that much could be achieved by better visibility and signing. There is a need to limit the number of temporary traffic lights on any given stretch of road to reduce as much as possible platooning and the consequent frustration, but I am also certain that traffic should be restricted where a resurfacing project is under way. The eight-year-old schoolboy to whom I referred earlier lost his life on a newly tarred corner that had not had the final anti-skid coating applied and on which there were neither white lines nor—crucially—any traffic restrictions. Proper restrictions under those circumstances would almost certainly have saved a life.

Accidents will always occur and some will involve fatalities. Sadly, that is inevitable, but it is our duty to do everything in our power to minimise them. Much more can be done to that end, and I have suggested some measures that I believe would be appropriate. I look forward to hearing what other members have to say and to a positive

response from the minister. I commend the motion to Parliament.

17:14

Alex Neil (Central Scotland) (SNP): I congratulate Alex Fergusson on initiating the debate and on his eloquence in speaking to the motion. I speak in this debate as someone who has two interests in the A76. The first is a constituency interest: the A76 runs from Kilmarnock to Dumfries, and therefore covers both Central Scotland and the South of Scotland. My other interest is as someone who lives in Ayr, who previously worked in Cumnock and who has always been extremely concerned about the state of the A76.

Alex Fergusson highlighted many of the safety issues that have been raised. It is worth taking a journey from Kilmarnock to Dumfries on the A76—I encourage the minister to do so. It is not too bad leaving Kilmarnock, but it is almost impossible to get safely through Mauchline without having to stop on numerous occasions to let heavy goods vehicles pass. Let me emphasise the point about heavy goods vehicles, because we are not talking just about transit vans. The two main products that are carried on the route are coal and timber. Coal lorries and timber lorries are exceptionally unsafe and travel at substantial speeds, despite the state of the road. There is no bypass on the road south of Cumnock. Drivers bypass Auchinleck and Cumnock to return, as on the previous section of the road, to going through towns and villages, some of which have very narrow streets. Drivers go through the main streets in Kirkconnel, in Sanquhar, in Thornhill and elsewhere.

There are concerns about the state of the road. Alex Fergusson mentioned the remedial measures that were supposed to have been taken between New Cumnock and Sanquhar. The minute you leave New Cumnock, you would not think that you were on an A-class road but on a farm dirt track, because the road is so poor. It is narrow, winding and very unsafe. It is almost beyond belief that it is classed as a main road.

I argue the case for improving the A76 on safety and economic grounds. Look at the connection between Ayrshire, Dumfries and Galloway and further south: there is no first-class road connection between Ayrshire and the south of Scotland. That has an effect on the economy. It is about 20 years since the then four local authorities in Ayrshire decided jointly that the A76 should be the main route south from Ayrshire into Dumfries and Galloway and on to the border, but in many places the road is still in a state of complete disrepair and is very unsafe.

Alex Fergusson's point about the impact of the M77 was well made; it has increased the

volume—and often the speed—at which traffic travels in a hurry to get from Glasgow to south of the border.

I hope that the minister will consider the issues seriously. The one thing on which I disagree with Alex Fergusson is that I do not see why we should not set an ambition to have a dual carriageway from Kilmarnock to Dumfries. If we are serious about opening up the economies of Ayrshire and of Dumfries and Galloway, that should be our ambition. In an answer earlier this year, the minister said that an upgrade would cost about £500 million. That is less than one tenth of the money that the Chancellor of the Exchequer raised from Scotland's oil on Monday. I do not see why some of that investment should not come back into roads in the west of Scotland.

17:19

Dr Elaine Murray (Dumfries) (Lab): I congratulate Alex Fergusson on securing the debate and for the very impressive case that he made for improving the A76.

Sadly, since the motion was lodged there has been another fatality, that of an eight-year-old constituent, Joseph Lock. He was on his way to Closeburn Primary School in the school bus on Tuesday 22 November when an accident took place in thick fog on a stretch of the A76 that, as Alex Fergusson said, was being resurfaced.

The A76 is a road that I knew well when I used to travel between Prestwick and Dumfries. Unfortunately, in the five years since I left, things seem to have got worse: there have been more accidents and more fatalities.

I thank Amey and the Scottish Executive for agreeing to meet me in a couple of weeks to discuss the issues around the accident and I invite to Alex Fergusson and other members to attend that meeting if they wish to do so. Clearly, the circumstances of any fatality are a matter for the police to investigate, but there must be concerns about a road being left in such a condition at a time of year when the weather can be extremely bad.

I wrote to one of the minister's predecessors many years ago about the safety of the A76 and the matter has been raised on a number of other occasions by me and others. Sadly, it was only a couple of weeks before the most recent fatality that we last discussed the matter in Parliament. Officials from Dumfries and Galloway Council and East Ayrshire Council met MPs and MSPs during the summer to discuss how we can get the upgrade of the trunk road onto the Executive's agenda. Sadly, the incidence of three fatalities has ensured that the matter is now up for discussion. I pay tribute to the campaigns that are run by local

newspapers the *Dumfries Courier* and the *Dumfries & Galloway Standard*. I am pleased that the minister has agreed to meet local MPs and MSPs to discuss their concern about both the A76 and the A75.

In my final couple of minutes, I will make a more general point about road safety, particularly on trunk roads. Six people have died on trunk roads in Dumfries and Galloway in six weeks. Road design is clearly a factor, but driver error and failure to drive according to road conditions are also often factors. The Scottish Executive has set targets for councils to reduce the number of road accidents and, in particular, the number of child fatalities, but I wonder whether more measures can be introduced to alert drivers to the dangers on roads that have bad records for serious accidents. That is no substitute for improvement schemes, but it will take time to introduce such schemes and in the meantime we need to do more to alert people to the dangers.

A constituent has provided me with photographs of measures that are taken in France, which also has a bad record of road accidents. The French erect black silhouettes by the side of the road to alert drivers to sections of road where fatalities have occurred. That might be a little too explicit for our tastes, but I wonder whether we can do more to remind drivers, who perhaps lack the imagination to realise the dangers in which they may be placing themselves and other road users, that they are in charge of lethal machines.

I urge the minister to take action to tackle both the specific problems of the A76 and the more general problems of driver awareness. I finish with the words of Joseph Lock's mother:

"I know nothing will bring back my little boy, but something must be done before there are any more accidents."

17:22

Murray Tosh (West of Scotland) (Con): It is about 10 years since, as a member of Kyle and Carrick District Council and, briefly, as a member of the Ayrshire economic forum, I was involved in arguments about trunk roads in Ayrshire. The economic forum was focused on Ayrshire's trunk road links to the outside world and was concerned for the future of its agriculture, its industry and the extractive industries that were left in the area.

When trunk roads were under review, the councils and the economic forum campaigned hard for the Government to designate the A70 as the principal external route and to invest heavily in improving that road, removing the A76 to the status of a more local road and putting all the heavy traffic on a route that is quite thinly populated.

Because the Government declined to accept the proposal, the A70 remains a local road and all the freight from Ayrshire thunders its way down the A76, which is the principal route and the most direct route to the motorway network and to England. The compensation for the decision that the A76 would remain the trunk road was that a route action plan was developed and a route accident reduction plan was framed.

From my two years as a transport spokesman in the Parliament, I hope that I bring a couple of perspectives to this evening's debate, which Alex Fergusson introduced so well. I am aware from the work that I used to do that, when route action plans are framed and projects are identified, the implementation of those projects follows automatically in the great majority of cases. Sometimes it happens quickly and sometimes it happens more slowly, but generally there is a commitment to do what has been defined as necessary.

I am also aware that, as the years pass, the accepted standard for road safety changes. The accepted principles of road, junction and overtaking lane design also change. I am an occasional user of the A76, because when I travel to Dumfries I tend to take the Castle Douglas road. It is further but less stressful. If I am heading south, I tend to take the A70 and the motorway.

I consider the A76 to be a trunk road that is failing in its purpose. It collects the freight traffic but deflects a lot of other traffic on to local roads that are not designed to take through traffic. I suggest that as well as investing in the projects that have been identified, albeit subject to whatever work is necessary to bring them up to modern standards, there may be a case for revisiting the route action plan, which is now 10 years out of date—if not more, given the timing of the studies.

I was not happy to hear Alex Neil introduce the argument about £500 million. That is not a realistic prognosis. A programme of targeted, selected projects, in conjunction with an upgrading of the route accident reduction plan, could achieve what is necessary. The projects would include genuine overtaking opportunities, an end to congestion and people's frustration on many sections of the road and a radical increase in road safety. If the minister can give us any comfort on those objectives, all the users of the road and all those who are interested in the economies of that part of Scotland will be pleased.

17:26

Chris Ballance (South of Scotland) (Green): I, too, congratulate Alex Fergusson on securing the debate. I have a great deal of sympathy with the

intentions behind the motion. I note with interest that it accepts that an upgrade of one part of the road system inevitably leads to more traffic and consequential problems elsewhere. Green transport campaigners have been arguing against the Tories about that for years. The upgrade of the A77 to the M77 has caused an increase in traffic and an increase in the expectation of traffic speed on that route. We have to decide—

Murray Tosh: Will the member give way?

Chris Ballance: I shall finish the sentence. We have to decide when to reverse the failed road-building policies and concentrate instead on building a decent transportation system for everybody.

Murray Tosh: Will the member expand on his criticism of the upgrading of the M77? Will he tell us how many people were killed on that road in the year before it opened and how many people have been killed on it in the year since it opened?

Chris Ballance: I cannot, because I do not have those statistics to hand. My point is that the upgrade of the M77 has caused problems elsewhere, which is accepted in the motion. I said that I have a lot of sympathy with the intention behind the motion, but before I come to the positives I challenge Alex Fergusson to state where his priority lies.

As Murray Tosh said, there is not an unlimited pot of money for road improvements. I have heard Alex Fergusson describe the A75 as the most deserving case for expenditure in Scotland. I have heard him and his colleagues in Dumfries and Galloway alone call for priority expenditure on the A75, the A77, the A701, the A708 and the A709. He weakens his case by being so liberal with expenditure. Is he saying that we must plough money into every road in Dumfries and Galloway and ignore public transport? Is it a limitless pot?

Alex Fergusson: I made it clear that a great deal needs to be done to improve the safety of the A76 with a fairly low financial input. The member is twisting the debate into something that it is not.

Chris Ballance: As I said, I wanted to make a couple of negative points first, which I have done. Moving on, some of the A76 route action plan overtaking schemes may improve safety on the route. I do not oppose the motion but, as Murray Tosh pointed out, similar claims were made for the upgrade of the A70. There is a strong case for considering whether the priority should be the A70 or the A76. The A70 carries more lorry traffic, particularly coal lorries, than it was possibly designed to.

Road deaths require urgent attention. I suggest that the minister should have a much more immediate tool at his disposal to deal with them.

Accidents are caused by three things: driver behaviour, road conditions and vehicle defects. Driver behaviour is the greatest problem by a long way. A reduction of 1mph in mean speeds would lead to a 5 per cent reduction in accident rates. Excessive speed levels on faster rural roads have noticeably increased over the past decade, and drivers' speed expectations are a real problem.

I say to the minister that road upgrades take years to progress, but speed cameras can and must be installed overnight. There is now a clear case for Dumfries and Galloway constabulary positioning mobile speed cameras on the A76 at much more regular intervals. In the longer term, the A76 is a strong candidate for involvement in the extension of the hugely successful average-speed SPECS system, which was launched on the A77.

Everyone wants a safer A76, but the residents of Sanquhar, Thornhill, Kirkconnell and New Cumnock do not want an A76 racetrack that encourages more and faster traffic to go through their town or village. I am not arguing that none of the upgrades should go ahead, but that there are alternatives for improving driver behaviour that could be put in place much sooner.

17:31

Alasdair Morgan (South of Scotland) (SNP): I, too, congratulate Alex Fergusson on securing the debate.

I once heard somebody say that there is no such thing as a road accident; there are only collisions that are caused by failures on the part of human beings, but we must recognise that some roads are much less forgiving of the human failure that is bound to occur. On the A76, there are short straights with severe bends at each end and excess traffic furniture to warn of hazards ahead that can become hazards themselves. The road contributes to driver frustration, which inevitably makes the driver less cautious than they might otherwise be. As a result, the road makes a contribution to the human frailties from which we all suffer. There may also be many tourists on the road who are not necessarily familiar with its less forgiving characteristics. Therefore, there is a real problem.

Alex Fergusson said that south of the county march and north of Kirkconnell, there is a

"marked deterioration in geometric standards".

That is certainly an understatement. In some places, two heavy goods vehicles going in opposite directions cannot pass without one of them having to stop. We do not expect such things to be necessary on A roads.

There are fewer vehicles on the A76 than on some other A roads but, as Alex Fergusson said, the proportion of heavy vehicles is much higher. That means that a collision is likely to be much more serious than it would be elsewhere. The theoretical alternative to by-passing might be to put HGVs on the Nith valley railway line, but that too is at capacity and upgrading it—although necessary—is not an alternative to upgrading the A76. There is a real problem that must be tackled.

There has been no end of glossy studies—Murray Tosh referred to the first of them. The first glossy booklet on the route action plan was produced in October 1994. All the plans contain the seeds of significant procrastination, and procrastination has taken place. Much of what has been delivered so far has been relatively minor. Non-skid surfacing at potential accident spots is an improvement, but it is also an implicit admission that there is a real problem that only major surgery at those locations would cure. I remain to be convinced that the plethora of new signs that were put up years ago—most bore pictures of tractors—was a significant step forward.

The debate has rightly been prompted by the cost in human lives, but I am conscious of the effects on the economy. Murray Tosh said that an economic forum sparked off the original debate. Way back in March 1996, a Cardiff Business School study examined the effects on the economy of north Wales of dualling the A55 from Holyhead to Chester. It said that improving the road had increased accessibility, brought wider choice and raised standards.

The study found that the A55 opened up new markets for inputs and outputs and that tourism had grown and would continue to grow. Would that we had in the depressed areas along the A76 in Ayrshire and Dumfriesshire the advantages that that study talks about. The study also considered the challenges that the economy of north Wales faces, now that it has contacts with the outside world. Would that south-west Scotland had the challenges that good transport links would give us.

I will not get into the constitutional argument, but I believe that Scotland should be able to invest much more in its transport infrastructure.

17:35

Ms Rosemary Byrne (South of Scotland) (SSP): I welcome the debate and congratulate Alex Fergusson on securing it. I express my deepest sympathy for the family of Joseph Lock and for the other families who have experienced tragedy on the road. The A76 is a road that I travel fairly frequently and I know the frustration and dangers of driving along it. The inadequacies of

the road have long been recognised and a route action plan for the A76 was finalised in 1996, yet, here we are, nine years on, with no improvements having been made to the road.

The route action plan set out six major improvement schemes to allow for the safe overtaking of slow vehicles along the length of the A76 between Dumfries and Kilmarnock. Those improvements were to be built over 15 years yet, nine years later, only one has been completed. The road has at least seven accident black spots: from the Dumfries bypass to Auldgrith; from Thornhill village south to the A702 junction at Carronbridge; from Sanquhar north to Kelloholm; from Kirkconnel north to Pathhead; from the B7083 junction at Netherthird to Darnlaw roundabout at Auchinleck; at Mauchline village, which has been mentioned; and from Bargower to the Kilmarnock interchange. This cannot continue. We cannot have a repeat of the latest tragedy.

Representatives from Dumfries and Galloway Council secured an urgent meeting with the Executive on behalf of the A76 partnership. I hope that we will soon hear the results of that meeting in announcements on road improvements. However, local residents and councillors have been campaigning for greater road safety for 20 years, the route action plan is nine years old, and Dumfries and Galloway Council has been waiting since 31 October for that meeting with the Executive—it still does not have a date for it. The time for waiting is over; the time for action is now.

In September, the First Minister announced the Executive's legislative programme for the year and stated:

"Too many critical transport projects ... are taking too long to implement."—[*Official Report*, 6 September 2005; c 18782.]

I agree with him. The improvements to the A76 have taken far too long and cannot be allowed to take any longer. Let us hope that the latest tragedy is not repeated and that the vital road improvements are implemented as a matter of urgency.

17:38

The Minister for Transport and Telecommunications (Tavish Scott): I thank Alex Fergusson for bringing the debate to Parliament. His motion sets out a range of issues relating to this section of Scotland's trunk road network. I join other members in expressing condolences to all those who have been tragically affected by the recent accidents.

Members have given considerable historical background to the A76, including the route action plan—glossy or otherwise. One or two members have also suggested that no investment has taken

place but, as Alex Fergusson and others have more fairly pointed out, that is not the case. There are two relevant works contracts in the 2005-06 transport programme: the reconstruction of the carriageway and associated improvements at Sanquhar, which have just started; and the resurfacing and associated measures in New Cumnock. The combined estimated cost of those projects is in excess of £1.5 million.

The route action plan study recognised that, overall, the level of traffic on the A76 would not justify a major upgrading of the road from end to end. Subsequent analysis has not materially altered that position.

Alex Neil: Will the minister give way?

Tavish Scott: I will make a few more points and then I will give way to Mr Neil.

Six schemes were identified at the time and were classified as short, medium and long-term objectives. The short-term schemes were at Crossroads and Polquhirter; the medium-term ones were at Brackenhill and Gateside; and the long-term ones were at Glenairlie and Cample. Two schemes were initially progressed: those at Crossroads and Gateside. The Crossroads scheme was completed in late 2003 and replaced an offset crossroads junction with a new roundabout and a section of overtaking lane.

A scheme between Gateside and Knockenjig was prepared but it has not hitherto satisfied the necessary value-for-money criteria; some members have mentioned that this afternoon. Modifications were made to the original scheme but were not agreed by local landowners, as I am sure that members are aware. Dumfries and Galloway Council has been invited to assess the possibilities of another scheme in the area and I await the results of that discussion.

A further route action plan proposal that is being taken forward is the promotion of the scheme at Glenairlie, which is south of Sanquhar. The scheme is currently being prepared and will provide back-to-back guaranteed dedicated overtaking opportunities. I hope to publish the draft orders for the Glenairlie improvement early in 2006. The remaining schemes on the A76 will be progressed subject to competing priorities on the network—all transport ministers face competing priorities.

Murray Tosh: Can the minister clarify his point about the role of the council in progressing the scheme that he described? I understood that the council was the agency for the Executive in relation to trunk roads but that the Executive was the project director and fundholder. Should it not be the Executive that promotes the improvements at that location?

Tavish Scott: As I understand it—although it was before my time—we did promote the improvements but we could not reach a conclusion on the value-for-money criteria. We modified the plans, but they then did not meet the aspirations of local landowners—I believe that there were issues to do with an underpass and local farmers. We have invited Dumfries and Galloway Council to help us with that particular matter.

I will give way to Alex Neil on his earlier point.

Alex Neil: I have a question for the minister about the criteria for deciding on investment in roads. Making decisions on the basis of existing traffic is a narrow way of judging priorities. As my colleague pointed out, in north Wales, the economic impact of the dualling of the A55, as well as the safety and social impact, has transformed a depressed area.

Tavish Scott: I will come on to that when I talk about general roads policy in a moment or so. I did not say, and no transport minister has ever said, that the only criterion is the weight of traffic on a particular section of a road.

Alex Fergusson said that the upgrading of the A77 to motorway standard has brought about a steady increase in traffic on the A76. That is not the case. Records since January 2000 show that there has been a very small increase in A76 traffic in line with national traffic trends. I am not persuaded by the argument that there has been a huge displacement. There has been some change, but we should not overdo that argument.

Parliament will understand that I cannot comment on the recent A76 accidents because investigations are under way. The police have not indicated that the physical road environment was a contributory factor in the most recent accident, but my officials and the operating company are reviewing the circumstances to establish whether action requires to be taken.

However, I acknowledge that the safety issue is core to the argument that has been made this afternoon. The safety performance of the trunk road network as a whole is reviewed annually and a programme of safety measures is implemented to mitigate identified problem areas. I have instructed the 2005 review of accidents to begin. That will identify safety schemes for implementation in 2006. The potential for accident prevention schemes at accident clusters on the A76 will be considered as part of that review. I am extremely concerned about accidents that have occurred on that stretch of our trunk road network, so I have asked the department to look at this as a matter of urgency. The report will be with me in January.

The current trunk road programme is full, with more than 40 major projects that will serve

communities and users throughout Scotland, including the A76 Glenairlie scheme that I mentioned. In 2006—this answers the point that Alex Neil raised—we will start work on the strategic projects review, which will provide an opportunity to consider the major public transport and road transport priorities for the future. The review will take into account issues of national or strategic importance that affect the trunk road network throughout Scotland, including the trunk road network in south-west Scotland. The A76 will be part of that review.

I welcome the formation of the A76 action group, whose first meeting is, I understand, scheduled for Friday. The group will provide a useful focus for input to the strategic projects review. I can assure the Parliament that I have asked senior officials from the Executive's trunk roads divisions to attend that meeting on Friday both to report on progress on the A76 schemes and to listen to important local concerns in light of the motion that we have debated this afternoon.

Meeting closed at 17:48.

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