

MEETING OF THE PARLIAMENT

Thursday 23 February 2006

Session 2

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CONTENTS

Thursday 23 February 2006

Debates

Col.

ANIMAL HEALTH AND WELFARE (SCOTLAND) BILL: STAGE 1	23429
<i>Motion moved—[Ross Finnie].</i>	
The Minister for Environment and Rural Development (Ross Finnie)	23429
Richard Lochhead (North East Scotland) (SNP)	23433
Mr Ted Brocklebank (Mid Scotland and Fife) (Con)	23437
Maureen Macmillan (Highlands and Islands) (Lab)	23440
Sarah Boyack (Edinburgh Central) (Lab)	23443
Christine Grahame (South of Scotland) (SNP)	23446
Irene Oldfather (Cunninghame South) (Lab)	23448
Alex Fergusson (Galloway and Upper Nithsdale) (Con)	23451
John Farquhar Munro (Ross, Skye and Inverness West) (LD)	23453
Mr Mark Ruskell (Mid Scotland and Fife) (Green)	23455
Ms Rosemary Byrne (South of Scotland) (SSP)	23457
Dr Elaine Murray (Dumfries) (Lab)	23459
Stewart Stevenson (Banff and Buchan) (SNP)	23461
Alex Johnstone (North East Scotland) (Con)	23463
Nora Radcliffe (Gordon) (LD)	23466
John Scott (Ayr) (Con)	23468
Rob Gibson (Highlands and Islands) (SNP)	23470
The Deputy Minister for Environment and Rural Development (Rhona Brankin)	23473
QUESTION TIME	23478
FIRST MINISTER'S QUESTION TIME	23486
QUESTION TIME	23498
WAITING TIMES	23515
<i>Motion moved—[Mr Andy Kerr].</i>	
<i>Amendment moved—[Shona Robison].</i>	
<i>Amendment moved—[Mrs Nanette Milne].</i>	
<i>Amendment moved—[Carolyn Leckie].</i>	
The Minister for Health and Community Care (Mr Andy Kerr)	23515
Shona Robison (Dundee East) (SNP)	23520
Mrs Nanette Milne (North East Scotland) (Con)	23523
Carolyn Leckie (Central Scotland) (SSP)	23526
Euan Robson (Roxburgh and Berwickshire) (LD)	23528
Helen Eadie (Dunfermline East) (Lab)	23531
Stewart Stevenson (Banff and Buchan) (SNP)	23533
Eleanor Scott (Highlands and Islands) (Green)	23535
Des McNulty (Clydebank and Milngavie) (Lab)	23538
Alex Johnstone (North East Scotland) (Con)	23539
Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD)	23541
Rob Gibson (Highlands and Islands) (SNP)	23543
Mr Duncan McNeil (Greenock and Inverclyde) (Lab)	23544
Margo MacDonald (Lothians) (Ind)	23545
Carolyn Leckie	23547
Euan Robson	23549
Mary Scanlon (Highlands and Islands) (Con)	23551
Mr Stewart Maxwell (West of Scotland) (SNP)	23553
Mr Kerr	23555
PARLIAMENTARY BUREAU MOTIONS	23560
<i>Motions moved—[Ms Margaret Curran].</i>	
DECISION TIME	23561
AIR AMBULANCE TRIALS (ORKNEY)	23570
<i>Motion debated—[Mr Jim Wallace].</i>	
Mr Jim Wallace (Orkney) (LD)	23570

Mr Alasdair Morrison (Western Isles) (Lab).....	23573
Jim Mather (Highlands and Islands) (SNP).....	23575
Mary Scanlon (Highlands and Islands) (Con).....	23576
Eleanor Scott (Highlands and Islands) (Green).....	23578
Rob Gibson (Highlands and Islands) (SNP).....	23579
Mr Jamie McGrigor (Highlands and Islands) (Con).....	23580
Stewart Stevenson (Banff and Buchan) (SNP)	23582
The Deputy Minister for Health and Community Care (Lewis Macdonald)	23584

Oral Answers

Col.

SCOTTISH EXECUTIVE	23478
GENERAL QUESTIONS	23478
Care and Nursing Homes (Bed Places)	23484
Chernobyl Disaster	23480
Defence Aviation Repair Agency (Privatisation).....	23481
Defence Aviation Repair Agency (Market Testing)	23478
Gaelic Education	23478
Pubwatch (Lanarkshire).....	23483
Scottish Driving Assessment Centre	23482
FIRST MINISTER'S QUESTION TIME	23486
Airports (Expansion Plans)	23496
Avian Flu.....	23495
Cabinet (Meetings)	23489
Chancellor of the Exchequer (Meetings)	23493
Disadvantaged Communities.....	23494
Prime Minister (Meetings).....	23486
SCOTTISH EXECUTIVE	23498
EDUCATION AND YOUNG PEOPLE, TOURISM, CULTURE AND SPORT	23498
Ambitious, Excellent Schools	23501
Gaelic-medium Education	23499
Public-private Partnerships (Schools)	23500
Recreational Opportunities	23498
Scottish Culture	23505
FINANCE AND PUBLIC SERVICES AND COMMUNITIES	23506
Central Heating Programme.....	23510
Civil Service Job Dispersal (Dundee).....	23513
Equal Pay (Local Authorities)	23506
Green Space (Community Access)	23508
North Lanarkshire Council and South Lanarkshire Council (Meetings)	23507
Planning etc (Scotland) Bill.....	23512
Right-to-buy Policy (Pressured Areas)	23511

Scottish Parliament

Thursday 23 February 2006

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

Animal Health and Welfare (Scotland) Bill: Stage 1

The Presiding Officer (Mr George Reid): Good morning. The first item of business is a debate on motion S2M-3894, in the name of Ross Finnie, on the general principles of the Animal Health and Welfare (Scotland) Bill.

09:15

The Minister for Environment and Rural Development (Ross Finnie): The Animal Health and Welfare (Scotland) Bill represents a significant step forward for animal health and welfare in Scotland. The bill is the outcome of a process of engagement with the public and stakeholders over several years and is an important component of the animal health and welfare strategy that the Executive published in 2004.

Before dealing with the principal provisions, I will comment briefly on the background to the bill. We live in a world in which the risk of an outbreak of an exotic animal disease is—regrettably—ever present. It is clear that our first defence here in Scotland must be to prevent an exotic disease from entering the country. The Environment and Rural Development Committee's stage 1 report on the bill highlighted the importance of that, and preventing disease from entering Scotland is a principal pillar of the animal health and welfare strategy.

Hand in hand with that, veterinary advice suggests that we must be prepared to respond quickly and robustly to any incursion of an exotic animal disease into Scotland. We have learned lessons from the outbreak of foot-and-mouth disease in 2001, from the resultant inquiries and from continuing engagement with a wide range of stakeholders.

The bill reflects those lessons. The health part of the bill will amend the Animal Health Act 1981 and reflects the changes and advances in science and risk assessment that have taken place since 1981. The bill is forward looking and is based on science. It will introduce several new animal disease control measures to enhance our ability to respond quickly to disease threats, to minimise their impact and to protect animal and human health.

The foundation of our current legislative framework for animal welfare—the Protection of Animals (Scotland) Act 1912—is nearly 100 years old. It has proved remarkably enduring, but it has failed to keep up with our developing understanding of animal welfare and society's expectations. The pace of change requires flexible legislation and the welfare part of the bill will deliver that. It creates a more flexible statutory framework. It sets out key principles and delegates detailed matters to secondary legislation. That flexibility is critical if our legislation is to keep pace with future advances in animal welfare and provide the framework for the next 100 years.

I welcome the committee's support for the animal health part of the bill and I will now discuss the key animal health provisions. The bill provides for additional powers of slaughter over animals for the purpose of preventing the spread of disease. The committee considered those provisions in detail and I was pleased to note that the consensus of its scientific expert witnesses indicated acceptance that those powers are needed as a potential disease control tool.

The slaughter powers provided by proposed new schedule 3A to the 1981 act are specifically for

“preventing the spread of disease”.

It follows that ministers must establish the existence of disease before assessing how best to prevent the spread of that disease in terms of the 1981 act. Any minister who wishes to discharge the responsibility to establish the existence of disease and to determine how best to prevent the spread of disease would need to consider the opinions of a wide range of relevant experts.

I am bound to say that I understand the sensitivity of slaughter, but in so far as the exercise of the power is inextricably linked with the need to establish the existence of disease, I continue to disagree with what the committee's report says on the point. A reference to the role of veterinary and scientific advice simply in relation to slaughter overlooks the fact that the powers cannot be used unless the existence of disease has been established and unless they would prevent the spread of disease.

Bringing together animals from different ownership poses a risk of disease spread. To minimise that risk, the bill will introduce the power to license animal gatherings. In most circumstances, that power will apply to farmed animals, including poultry, but will not extend to horse or dog shows.

The bill provides the legal framework to allow the Executive to harness the basic principles of the national scrapie plan should BSE be found naturally occurring in sheep. How that would work

in practice is set out in the United Kingdom's contingency plan.

As highlighted in our response to the committee's report, we are sensitive to the importance of maintaining genetic diversity in respect of any measures that impact on rare breeds and companion animals.

I move to the key provisions in the welfare part of the bill. The bill will introduce for the first time a general duty on a person to ensure the welfare of any animal for which they are responsible. To comply with that duty, owners and keepers will need to understand their responsibilities and take all reasonable steps to provide for the needs of their animals to the extent that is required by good practice. Most responsible pet owners do that already.

The bill will impose a statutory ban on all mutilations of any animal and provides for exemptions in secondary legislation to that general ban. The exemptions will permit procedures that are necessary for the overall welfare or good management of an animal, such as neutering and ear tagging. The ban and the exemptions will be brought into force together.

The docking of dogs' tails is a controversial practice that is currently permissible in law when undertaken by a veterinary surgeon. Initially, we proposed to exempt working dogs from the general ban. However, we have been persuaded by the evidence that was provided at stage 1 that that exemption is unnecessary, so I intend to prohibit the docking of all dogs' tails.

Phil Gallie (South of Scotland) (Con): I agree with much of what the minister said, but what evidence did he take from vets on tail docking and on their concerns about the long-term welfare of working dogs whose tails are mutilated later in their lives?

Ross Finnie: I think that the member is aware—perhaps he is not—that, in response to our announcement that we would ban all tail docking, we had the whole-hearted support of the British Veterinary Association. That is persuasive.

A principle of the bill is that responsibility for animals must lie with adults. For that reason, the bill makes it clear that parents or guardians are responsible in law for the treatment of their children's animals. The bill will also raise the minimum age at which children can buy pets from 12 to 16 years. That will help to prevent the buying of an animal on a whim and ensure that proper thought and consideration go into such purchases. Consistent with that approach, the bill will ban the offering or giving of animals as prizes. The acquiring of an animal should not depend on a game of chance; it should be a deliberate and conscious decision.

The bill will establish powers to set up licensing or registration schemes. Those powers will replace a range of statutes that regulate activities such as the running of pet shops, of riding schools and of animal boarding establishments and dog breeding. In addition, it is proposed to regulate through secondary legislation other activities and facilities that are currently unregulated, such as animal sanctuaries, greyhound racing, pet fairs and livery yards.

Stewart Stevenson (Banff and Buchan) (SNP): Will the minister reassure members that people who are under 16 will be able to own animals? I am thinking in particular of youngsters on a farm who have a lamb to rear and subsequently sell. Of course, I do not invite the minister to say that such ownership should be unsupervised, but I would like some reassurance.

Ross Finnie: The principle that the bill will establish is that responsibility for an animal rests with an adult. It will be the adult's responsibility to ensure that the undertakings in the bill are met. That duty of care is essential to improve welfare and to enable us more easily to bring a prosecution.

Importantly, the bill will allow inspectors for the first time to take pre-emptive action to remove an animal from situations in which it is likely to suffer. That is a significant step forward from the existing law, which allows action to be taken only if it can be proved that an animal has suffered.

Our society is increasingly—and rightly—intolerant of acts of violence towards animals, yet recent press coverage has revealed horrific examples of animal abuse. From the evidence that was given to the committee, I know that the public want us to provide the courts with tougher penalties for offenders. Therefore, I shall lodge an amendment at stage 2 to provide that the maximum penalty for causing unnecessary suffering will be a fine of £20,000, 12 months' imprisonment, or both.

Following discussion and evidence that was given to the committee at stage 1, I also intend to lodge an amendment that will create an offence of recording an animal fight. Organised animal fighting is perhaps the most heinous criminal activity that the bill covers, and there is evidence that recordings of animal fights can be used to promote that unsavoury activity.

Maureen Macmillan (Highlands and Islands) (Lab): Will the minister clarify that not only selling recordings of animal fights will be an offence, but recording them will be an offence, too?

Ross Finnie: Indeed. Recording animal fights, selling those recordings and using them for promotional activities will be offences. Recordings of animal fights have been shown publicly, and

there has been illicit gambling on the results of those fights. It is right that such an abhorrent activity is made as difficult as possible and that it should attract a severe penalty under the legislation.

The bill is wide-ranging. I thank the Environment and Rural Development Committee and its clerks for their clear and comprehensive report on it and welcome the committee's endorsement of its general principles. It represents a significant step towards supporting and raising animal health and welfare standards.

For the purposes of rule 9.11 of the standing orders, I advise the Parliament at this early stage that, having been informed of the purport of the Animal Health and Welfare (Scotland) Bill, Her Majesty has consented to place her prerogative and interests, in so far as they are affected by the bill, at the disposal of the Parliament for the purposes of the bill. [*Interruption.*] Obviously, we are grateful that the Scottish National Party thinks that that announcement is important. I am glad to receive its whole-hearted support.

I move,

That the Parliament agrees to the general principles of the Animal Health and Welfare (Scotland) Bill.

09:27

Richard Lochhead (North East Scotland) (SNP): The SNP whole-heartedly supports the general principles of the Animal Health and Welfare (Scotland) Bill because it offers a modern framework for the implementation of effective and enforceable legislation on animal welfare.

The approach of the fifth anniversary of the outbreak of foot-and-mouth disease in Scotland brings back memories of horrific scenes and of the distress that was caused to many families and businesses in our rural communities. In that context, and with the threat of bird flu hanging over the nation, we acknowledge the importance of the issues that we are discussing. Preventing diseases from occurring in Scotland in the first place—and preventing them from spreading if they do occur—is the key. I hope that all members accept that Governments need the ability to act swiftly to implement radical and sometimes extreme measures.

The SNP welcomes the many measures in the bill to prevent the deliberate infection of animals, such as the licensing of livestock markets and animal gatherings and the creation of new offences. We agree that there will be times when the limited slaughter of animals and the burning of carcasses may be necessary, but I hope that we all accept that such courses of action are a last resort. There are alternative routes to go down, such as vaccination, controlling human and animal movements and implementing biosecurity codes.

I think that all members of the Environment and Rural Development Committee accept that one issue that is causing great concern among the various interested parties outwith the Parliament is the inclusion in part 1 of extended powers of slaughter. There is a real fear that if the bill is not amended it will provide the minister with a licence to kill without the necessary safeguards being in place to ensure that that licence to kill is not misused. After all, we are talking about the possible slaughter of healthy animals.

Ross Finnie: Will the member please explain something in developing that point? It is expressly set out in proposed new schedule 3A to the 1981 act that slaughter powers can be used only for the purpose of

“preventing the spread of disease”,

which seems to me to open up all sorts of challenges. Ministers must demonstrate that they have used the powers for that purpose.

Richard Lochhead: The bill will give the minister enormous discretion, as I am about to illustrate. Many people think that the schedule to which the minister refers will not prevent other situations from occurring.

As the Environment and Rural Development Committee's report states, the committee heard many concerns that the new powers will give ministers

“wide discretion to slaughter any animal as they ‘think fit’.”

The report also states that the bill will give new powers that

“provide for the slaughter of animals that may not be affected, suspected, exposed or in contact with disease”

and that

“Ministers may also authorise the slaughter of non-farmed animals that could transmit disease to farmed livestock in a disease outbreak.”

There are two main reasons for the concerns. First, ministers will have powers but will not be required to take the appropriate advice. Secondly, the power to slaughter will be exercised solely on the basis that ministers consider it “fit” to slaughter. The report states that many witnesses said to the committee that

“aspects of the culling carried out during ... 2001 ... are now considered to have been unnecessary”

and it quotes the Scottish Agricultural College, which said to the committee:

“Being wise after the event, we now find that perhaps the degree and extent of the cull was excessive.”—[*Official Report, Environment and Rural Development Committee, 23 November 2005; c 2424.*]

Slaughter is therefore sometimes unjustifiable. Surely we can use the bill to ensure that

unjustifiable slaughter does not happen again, but safeguards are lacking. We are left with an act of faith. The minister told the committee that ministers should be trusted not to authorise a random slaughter of animals. We have been asked to trust the minister. We accept that the minister needs flexibility. In response to the committee's report, he said that

"the Executive does not believe that it is necessary to include the role of veterinary and scientific advice on the face of the Bill"

and that he

"would require to have regard to all the prevailing circumstances, including the opinions of relevant experts."

The question that many people outwith the Parliament and members of the Environment and Rural Development Committee have asked is why that requirement cannot be in the bill in order to give the safeguard that many people request. There is enormous concern that wildlife could be slaughtered on a massive scale. Any mass culls that took place would cause anger throughout Scotland. Of course, that raises biodiversity issues, which the minister has already addressed and which will be vigorously debated in the forthcoming stages of the bill.

In preventing the spread of disease, such measures may not be effective, never mind popular. We must take on board public acceptance. We know that public acceptance of bonfires of carcasses back in 2001 was limited, but the widespread destruction of wildlife would be disastrous and would lead to an understandably enormous backlash from the public. We welcome the fact that the minister has acknowledged that he would take into account the impact on the wider rural economy, tourism and the environment, but, again, there are no safeguards in the bill.

The ability to slaughter companion animals is a sensitive issue. Such slaughter would lead to a public backlash. Many organisations have said to the Parliament that there should be higher tests for such a measure in the bill. Perhaps only companion animals that are infected by a disease should be slaughtered. The minister should address such issues at stages 2 and 3. He was encouraged to put such safeguards in the bill, but he has declined to do so.

We must stop diseases coming into Scotland in the first place. The committee took unconvincing evidence from HM Revenue and Customs on whether it is doing enough to stop illegal imports coming into Scotland. The National Audit Office recently issued a report—five years after the outbreak of foot-and-mouth disease—that stated that 11 recommendations should be implemented to tighten things up. I hope that the minister is investigating those issues and ensuring that Scotland is able to police illegal imports.

I turn to the welfare part of the bill, which the SNP welcomes. We pay tribute to organisations that have been involved in welfare issues over the years, such as the Scottish Society for the Prevention of Cruelty to Animals. That 8,000 investigations had to be conducted last year alone shows that the issue of animal welfare must be addressed in Scotland. We welcome many of the measures that the minister outlined in his opening speech.

Phil Gallie: The minister announced that a 12-month sentence was likely for people who commit violent crimes against animals. Given that the Executive is concerned about overfilled prisons and that it is considering alternative sentences for violent crimes against individuals, how effective will such a sentence be?

Richard Lochhead: The member is referring to the maximum penalty, of course. There is widespread agreement that cruelty to animals that causes pain and suffering must be addressed, which is why the bill has been widely welcomed. Of course the measures must be enforced, which is why the penalties have been widely supported.

I will talk briefly about mutilations. Many SNP members support the minister's statement that mutilations cause unnecessary pain and suffering and should be outlawed. On tail docking, I welcome the minister's response to the committee's report that he will take a tougher stance. Should evidence be produced that banning tail docking has caused more pain and suffering, secondary legislation can be introduced to address the changed situation. There is no doubt that there will be vigorous debate on tail docking as the bill proceeds.

We ask the minister to take on board the concerns that have been expressed by sanctuaries. We must improve the welfare of animals in sanctuaries, and it should not be just the 50 biggest sanctuaries that are subject to the bill; it should be all sanctuaries.

Mike Rumbles (West Aberdeenshire and Kincardine) (LD): Will Richard Lochhead take an intervention?

The Presiding Officer: No. The member is in his last minute.

Richard Lochhead: I apologise. I am in my last minute and cannot take any interventions.

Internet trading is another issue that was brought to the attention of the committee, and we welcome the fact that the minister has acknowledged our concerns about that as well. The trading and advertising for sale of pets on the internet will be addressed in Scotland.

In conclusion, I reiterate the SNP's support for many of the measures in the bill. There are many

vigorous debates ahead at stage 2 and stage 3. In particular, the unfettered ability of the minister to impose orders for mass slaughter without there being any safeguards in the bill will be a key battle in the stages ahead. Gandhi said that

“the greatness of a nation and its moral progress can be judged by the way its animals are treated.”

If we pass the bill after it has been appropriately amended, the Parliament will have played a great role in ensuring that moral progress is made in Scotland in terms of animal welfare.

09:36

Mr Ted Brocklebank (Mid Scotland and Fife)

(Con): With avian flu perhaps only days away from detection in these islands, it is timely that this stage 1 debate on the Animal Health and Welfare (Scotland) Bill should take place now. I shall return to avian flu later. It is absolutely vital that the proper framework for animal health and welfare is achieved in Scotland. We are not only a major agricultural and aquacultural nation; we also operate a valuable and healthy game sport industry. We are also a nation of pet owners, pigeon fanciers, dog breeders and the like, and equestrian sports play a large and growing part in Scottish life.

The existing legislation is outdated and confusing. Although aspects of the proposed new legislation might also lead to confusion, I am in no doubt that what is proposed is a considerable improvement on what exists. The evidence that the committee took was wide-ranging and, if at times contradictory, it was challenging and, most important, up to date. The bill makes proposals for both the health and the welfare of animals, and a similar bill is currently making its way through the parliamentary process at Westminster.

On such a wide-ranging bill, it will be possible for me to deal with only some of the legislation that is proposed. That does not mean that Conservative members are not broadly in favour of the general thrust of the bill. The Conservatives will support the bill at stage 1, although there are aspects of the bill that we cannot support. Some of the proposals need further clarification and others are simply wrong-headed, demonstrating yet again the Executive's failure to engage in genuine dialogue with countryside interests and those who have detailed knowledge of animal welfare in rural situations.

On animal health, we agree with the Executive that a key objective in any disease control strategy is to minimise the number of animals that need to be slaughtered. We accept that the minister may have to act with great speed in deciding on extended powers of slaughter. However, despite what the minister said this morning, we cannot

understand why he is opposed to the inclusion of a phrase to the effect that such powers would be taken by the minister only after appropriate scientific and veterinary advice had been taken, as the committee recommended. If, as the minister claimed to the committee, it is unthinkable that a minister would take such action without first seeking advice from the appropriate authorities, why is he reluctant to allow wording to that effect to be included in the bill?

There are also issues in relation to vaccination. The Executive's preferred action, when a policy of culling susceptible animals on infected premises is insufficient, is vaccination to live. Despite raising the point with the minister during question time, I am still not reassured that vaccinating beef cattle to live would make them acceptable for export under European Union legislation. No doubt, the minister will seek to clarify that. I understand, too, that the Executive has access to relevant UK and EU vaccine banks for certain diseases. Perhaps he can tell us what the situation is in relation to vaccine supplies for avian flu. I acknowledge the fact that the Executive does not see vaccination as a reliable control tool in connection with avian flu; however, if it changed its view, would the supplies of vaccine be available? Perhaps the minister can give us a response on that.

On the animal welfare part of the bill, I confess to some confusion in relation to the section on responsibility for an animal. During evidence taking, it was stated that reared game birds became wild when they were released from their pens—that is, the rearer had no further responsibility for their welfare once they were no longer under his or her direct care. However, the Executive's response to the committee's report states:

“Simply releasing young pheasants does not absolve the person responsible for them of their duty of care. ... They are still ‘protected animals’ because they are not, at that stage ‘living in a wild state’.”

How long is the transition stage before the birds are judged to be able to fend for themselves? Nowhere does the bill offer any guidance on that point.

Next, I come to the Executive's decision this week to abandon its previous policy that the tail shortening of working dogs could be decided on a litter-by-litter basis. We now learn that all tail shortening is to be banned. As we have heard, tail shortening is an emotive issue, and the committee heard conflicting evidence on whether docking or shortening puppies' tails caused pain. We also had to assess whether the eventual pain that some retrievers and other breeds experienced through damage sustained to unshortened tails meant far more pain at a later stage, as has been shown in examples from Sweden. My view has

been influenced by my many years of following guns and watching working dogs in action in rough country. I am in absolutely no doubt that the tail shortening of working dogs is appropriate and proper. That was also the view of most of the witnesses who had experience of dogs in working situations.

Mike Rumbles: Does Ted Brocklebank agree that the docking of working dogs' tails is all about welfare? I cannot think of any other reason why people who have working dogs would dock their dogs' tails.

Mr Brocklebank: I agree absolutely with what Mike Rumbles says. That is the whole point. People who use and are involved with working dogs look after the welfare of those dogs. The whole point of the exercise is to make life better for the dogs and to make them work better in rough situations.

Ross Finnie: I respect the member's personal opinion. However, does he accept that vets devote their lives to animal welfare and that the British Veterinary Association has given its overwhelming support to the measures in the bill and to the statement that we have made?

Mr Brocklebank: Yes, indeed. I heard that evidence. However, as the minister will know, many other veterinary witnesses who gave evidence took a totally opposing view—especially vets who work in the field and perhaps understand these matters rather better than people sitting in the ivory towers of the British Veterinary Association's headquarters. Frankly, I do not see the problem in allowing vets to decide, on a litter-by-litter basis, at an early stage in the dogs' lives, whether tails should be shortened. Many vets are perfectly happy to do that, and many vets have done it over many years.

Maureen Macmillan: Will the member give way?

Mr Brocklebank: No, I will make some progress.

Country vets know which puppies are intended as genuine working dogs. The fact is that we will still dock pigs' and lambs' tails, and we will still carry out appropriate de-horning of cattle and domestically reared deer. Why are working dogs to be treated differently?

That is what I mean when I say that the Executive is now widely viewed to be anti-countryside and wilfully opposed to genuine dialogue with rural interests. The Scottish Gamekeepers Association, the British Deer Society and the Scottish Rural Property and Business Association, along with many other groups, all wanted tail shortening to be continued in certain circumstances, but their counsel and

vast experience have been totally dismissed. The minister will, doubtless, be aware that members of the Countryside Alliance are here today to demonstrate against the contempt that the Executive has shown for their views. I assure the minister that, at stage 2, the Conservatives will press for an appropriate exemption for working dogs from the tail shortening ban on a litter-by-litter basis.

09:45

Maureen Macmillan (Highlands and Islands) (Lab): I thank the clerks of the Environment and Rural Development Committee for their work on the bill—sterling, as usual. I also thank all those who gave evidence to the committee.

It is apposite that we are debating the Animal Health and Welfare (Scotland) Bill at a time when we fear the approach of an especially virulent strain of avian flu that has the power not only to annihilate wild birds and domestic flocks, but to threaten the life of humans who work closely with birds without having taken the necessary precautions.

At the moment, the skies around the Moray firth are filled with skeins of geese that have been overwintering. They pose no present danger, but they serve as a warning of how vulnerable they are and how vulnerable we may be by the autumn. We must have a strong strategy and a sound contingency plan to deal with the challenges of disease control, whether through biosecurity measures, vaccination or slaughter.

The outbreak of foot-and-mouth disease still resonates. During the recess, I drove through Longtown market, which will be forever remembered as the animal gathering point that sent foot-and-mouth disease around the country. The mass slaughter of animals that followed, the closing down of the countryside to tourists and the arguments over vaccination are all fresh in the mind, certainly for those of us who represent rural constituencies or regional areas. I am sure that Dr Elaine Murray will have much to say on that.

There is a horror of slaughter, but it is necessary in some circumstances. I welcome the minister's affirmation, in his response to the committee, that he would have to have regard to all the prevailing circumstances—including the opinions of relevant experts—before mass slaughter was ordered. The minister does not believe that such a provision is needed in the bill, but including it would give some comfort to farmers in the event of a mass slaughter policy. I therefore ask the minister to reconsider. I would not regard the inclusion of the provision as a safeguard, because I accept that such decisions would never be taken lightly, but I would regard it as a reassurance.

Vaccination to live would be preferable where it is available, but there seems to be a perception that there would be resistance among the general public to buying vaccinated meat—although they are probably buying it anyway if they buy meat from South America. Farmers are nervous about public perception. We already see in Europe people eschewing poultry and eggs, quite unnecessarily, because of avian flu.

What we cannot do is, suddenly, during a foot-and-mouth disease outbreak or other epidemic, try and persuade people to eat vaccinated carcasses—in the face, I presume, of a hostile press. If vaccination is going to be our policy, we must educate people well in advance.

We cannot pretend that vaccination can replace slaughter. Some diseases do not have a well-developed vaccine; some diseases may travel too quickly; and vaccination may mask the symptoms of a disease. I therefore believe that the Executive is being responsible in its proposals in the bill.

I welcome the sanctions against those who deliberately infect their animals. There was certainly anecdotal evidence in the foot-and-mouth outbreak of some farmers doing that to access the generous compensation payments—the level of which is also being addressed in the bill.

We have to be fair to the farmer, fair to the taxpayer and fair to the wider rural community. I remind the minister that many of us felt that there was inappropriate closure of some Highland estates to walkers during the foot-and-mouth outbreak. For example, there was a certain estate in Skye that contained one animal only—an elderly stag. I hope that there will be a more realistic use of biosecurity codes and that—rather than the imposition of a blanket ban—risk would be assessed on an estate-by-estate basis.

I turn to animal welfare issues. The bill places a duty of care on those who are responsible for animals. That has been generally welcomed.

Alex Fergusson (Galloway and Upper Nithsdale) (Con): Owners of working dogs who shorten the dogs' tails do so to secure the animals' future welfare. How does the member square that with the minister's publicly declared intention to remove the exemption for working dogs?

Maureen Macmillan: I will address that point later in my speech; I hope that Alex Fergusson will not mind waiting until then.

The first issue to consider is the definition of animal. The bill excludes non-vertebrates, and much has been said about the potential suffering of lobsters, crabs, shrimps and squid. The bill is not about how to cook animals or slaughter them, but about their welfare when they are kept in our control. It is about keeping animals and

transporting them. We have to retain a sense of proportion. Many of our remoter communities depend on transporting lobsters and crabs, for example, efficiently to market. I would not wish to jeopardise that.

I thank the minister for, in his response to the committee's report, clearing up some grey areas. For example, we now know exactly which animals are protected: they are defined as animals that, by habit and training, live in association with man. The definition includes pet rabbits but not wild rabbits, and it does not include wild animals that can be farmed, such as deer and pheasants. I also thank the minister for defining responsibility and for pointing out how it can be phased out—for example, when reared pheasants are released into the wild. I am sure that any gamekeeper could tell us when pheasants are ready to look after themselves. The definition also helps us to understand the scope and definition of abandonment.

The issue of the docking of dogs' tails elicited one of the biggest postbags that I have ever seen; the issue is obviously still contentious. People on both sides of the argument expressed their views passionately and I believe that they all had the welfare of dogs at heart. I had some sympathy with the view that certain working dogs should continue to have their tails docked to protect them from later damage. Docking could be regarded as the lesser of two evils. However, it became clear that it is not possible to identify with certainty which dogs will become working dogs and which will not—even among dogs in the same litter. I therefore support the total ban on docking.

John Scott (Ayr) (Con): What Maureen Macmillan says leads to another question: will it be illegal to work working dogs with natural tails in the certain knowledge that their having a tail will inflict pain on them?

Maureen Macmillan: I do not think that there would be "certain knowledge".

Alex Johnstone (North East Scotland) (Con): What about the Swedish study?

Maureen Macmillan: I do not think that the Swedish study was all that robust.

The Executive addressed to my satisfaction the questions that the committee raised on animal fights, inspection of premises and the selling of animals via the internet, but will the minister reconsider the inclusion of smaller sanctuaries? The committee heard evidence that smaller sanctuaries were often the most problematic.

The bill is full of details and it was important to ensure that they covered all possible instances in which animal welfare is a concern. I believe that

the Executive and the committee have worked to ensure that they did that.

Mike Radford of the University of Aberdeen said in evidence that this bill has the potential to protect animals from abuse, ignorance and neglect and to promote high standards of care and treatment. I agree, and I support the general principles of the bill.

The Presiding Officer: I call Sarah Boyack in her capacity as convener of the Environment and Rural Development Committee.

09:52

Sarah Boyack (Edinburgh Central) (Lab): Thank you, Presiding Officer. We are delighted to put the committee's views on the record this morning. This is a departure from our normal way of working, and I understand that it is an experiment. If this speech goes totally awry, I think that only two other members will get to do what I am doing now. I hope that it works. As convener of the committee, I hope to raise some issues that have not been raised so far in the Parliament.

I thank everyone who gave evidence to the committee, both in writing and orally. As members will have realised, some issues were controversial and views on them were expressed passionately. However, one thing that came across strongly was the overall support for the main principles of the bill—shifting responsibilities so that people look after animals proactively and ensuring that animal welfare is given top priority.

A challenge that is thrown up by the bill is that of ensuring that people understand their responsibilities. I will come back to that point, because we learned in evidence that people did not really understand the interaction between the bill, the policy memorandum and the statutory instruments that will likely appear at some uncertain future date. People have to understand not only individual sections of the bill, but how those sections relate to other sections.

Colleagues have spoken about part 1 of the bill. Although there is general acknowledgement that the minister must have effective powers to deal with outbreaks of disease, and that such powers would be exercised in emotional and potentially difficult situations, concerns have been expressed about the exercise of those powers. The minister has given us some assurances about safeguards and protocols and has made some concessions on greater parliamentary scrutiny of some aspects of those powers. We will return to the issue in more depth at stage 2; given the level of concern, it is right that we should do so. We must ensure that there is nothing further that the bill must include.

There was widespread agreement that we must focus not only on what happens once an outbreak has occurred, but on what can be done proactively to prevent disease and ensure that biosecurity measures work. In the light of the minister's response to our report, we need to give further consideration to several issues in that area. Animal gatherings are a crucial issue, which I do not think that any member has mentioned so far in the debate. In paragraph 86 of our report, we asked the minister to provide further information and guidance on how he plans to address the identification of animal gatherings. Ross Finnie referred to licensing and regulation, but I do not think that his response to our request went beyond a general commitment to provide control mechanisms. The committee wants more detail on what the criteria for the use of those mechanisms will be.

The slaughter of companion animals is another matter on which the minister's response was not sufficiently detailed. That was a hugely sensitive issue during the foot-and-mouth disease outbreak. Although the minister acknowledges the emotional attachment to companion animals, his response does not address specifically our recommendation at paragraph 37 on compensation orders. We would like to obtain more information on those issues before we reach stage 2. We also want more information on import controls and the current technological developments. We said that we would welcome more feedback from the minister on progress on those matters but, as yet, the minister has not indicated that any such information will be provided, other than the report on illegal meat seizures that is currently before the Parliament.

I turn to part 2. Some of the issues have already been discussed in depth by colleagues. The key point is that there is overall support for the consolidation, updating, modernising and strengthening of the law on animal welfare, which has been widely welcomed by members of all parties, by civic Scotland and by all the organisations that have made representations to us. The stage 1 evidence-taking process was helpful in clarifying issues on which people were unclear.

However, I want to make a general point about the Scottish statutory instruments that will put into effect the detail of what organisations and individuals expect to be implemented. The committee is concerned about the timescale that the minister has said will be adopted for the laying of those SSIs. Although some of them will start to kick in in 2008, there is an issue about the length of time that it will take to deliver the secondary legislation.

As convener, I am concerned about such delay, especially as although the Nature Conservation (Scotland) Act 2004 was passed in the spring of that year, we are still waiting for the consultation on the snaring provisions, which was expected to have taken place by the autumn of last year, but which has yet to go ahead. That is a problem because some people are not happy about the provisions that they think will be included in the relevant statutory instruments. The absence of those provisions has meant that there has been a lack of clarity. Colleagues have mentioned the duty of care in relation to animals that are released into the wild. It would be helpful for us to see the snaring provisions before we embark on stage 2 consideration of the bill. Perhaps the ministerial summing up will be able to move us forward in that regard.

During our stage 1 discussions, the minister expressed his willingness to bring forward some of those timescales. I make the general point that if a bill adopts a framework approach, which in this case is entirely right, the longer it takes to implement the statutory instruments that provide the content of the bill and its detailed provisions, the more difficult it is for people to know exactly what their responsibilities will be. In his opening speech, the minister rightly placed a great deal of importance on eliminating the cruelty to animals that leads to local authorities and the SSPCA having to deal with a large number of cases every year. It would therefore be helpful for ministers to reflect on whether it would be possible to bring forward the introduction of some of the statutory instruments and to give them greater priority so that people can see the whole of the bill and not just the framework that it sets out.

Colleagues have raised several other issues, but I do not think that the minister's commitment that animals should be protected from unnecessary mental as well as physical suffering has been mentioned. That commitment is welcome, because the matter was not dealt with in previous legislation on animal welfare. It is entirely right that that should be part of a bill for the 21st century.

The intention to prohibit mutilations has been generally welcomed. Many members have spoken about the need to be clear about which practices—especially those relating to farm management—can be exempt. Some witnesses felt that there was a lack of clarity in the bill as drafted and they were not sure exactly what it meant. The process of detailed discussion at stage 1 and stage 2 will provide clarity for the people who have such responsibilities. It is worth commenting that those management practices will change over time. The detail that is provided after the bill has been passed will be crucial. I hope that it will offer the chance for best practice to be adopted.

I turn to the tail docking of dogs.

The Presiding Officer: Briefly, please.

Sarah Boyack: It is clear that tail docking was the most contentious issue at stage 1. There was unanimity on the committee that we did not agree with the minister's position on how it would be ensured that specified litters of working dogs could be exempted. We were not happy with the minister's proposals. On the basis of what has been said this morning, I suspect that when we return to the issue, our view will not be unanimous. I can anticipate what the position of the majority of the committee will be, but it is appropriate for us to consider the matter further at stage 2.

I have run out of time. There are a number of issues that we raised in our report on which we would have liked to receive a more detailed response from the minister. If it would be possible for us to receive such information before stage 2 begins, that would help the detailed discussions that I expect we will have at that stage.

10:01

Christine Grahame (South of Scotland) (SNP): I declare my interest as a paid-up member of the SSPCA. I welcome the bill, which is wide ranging and places on individuals a duty of care towards their animals.

I will confine my remarks to companion animals. I welcome the fact that the bill deals with animal sanctuaries, although it is not only the largest 50 sanctuaries that need to be addressed. As members may know from their constituencies, well-meaning people sometimes set up so-called sanctuaries that let down the animals, regardless of their intentions. I sometimes wonder whether I have an animal sanctuary. I have three cats of my own, but a few more are making a big effort to move in by nestling into the kitchen sofa. One of them is black with white paws. At some point, in spite of my wishes, I might find my house turning into an animal sanctuary. There is an issue about definition. When does the home of someone who takes in a few cats, willingly or otherwise, become an animal sanctuary?

I welcome the important provision that only someone who is aged 16 or over will be allowed to own an animal. We should educate our young people on the purchase of animals and the time that needs to be dedicated to them, whether the animal in question is a hamster or a dog. I welcome, too, the sections in the bill that deal with the sale of animals—especially exotic animals—on the internet, which is a serious issue.

I will mention tail docking briefly. My instinct is to agree with the minister's position because it is difficult to define when a dog becomes a working

dog. We should not offer a huge loophole for the docking of dogs, which is done, in the main, for purely cosmetic purposes. I will listen carefully to the arguments that are made at stage 2 and stage 3; I am open to persuasion. I see that a farmer is rising to his feet.

John Scott: As a solicitor, Christine Grahame will understand the point that I am trying to make. I want to know whether it will be an offence to make a dog with a natural tail—an undocked tail—work in a situation that will inevitably cause it pain.

Christine Grahame: I hear what the member says. That is why I remain open to listening to the arguments. However, I will have to be fully persuaded that providing an exemption for working dogs would not create a loophole that would allow dog owners to continue to get their dogs' tails docked purely because they think that their dogs look better that way, which is the reason for the majority of the docking that takes place. I like to see dogs wagging their tails.

Mike Rumbles: I can assist with that. The committee has not asked the people who have working dogs why they dock their tails. The whole point is that the animal's welfare is the only reason for doing it.

Christine Grahame: I hear what the member is saying. The issue is difficult. I have entered the debate on the bill only at this stage and I want to hear fully the arguments on either side. If—and it is a huge if—I am persuaded that, on balance, it is in the interests of a particular working dog for its tail to be docked to save it pain and suffering, and if the mechanism of tail docking is such that there is no pain and suffering to the dog and tail docking can be defined, I may be persuaded of the argument.

I know that there were a lot of ifs and buts in what I have just said, but I need to be persuaded on the arguments. I remain open on the issue. Tail docking is not SSPCA policy. I am not in the chamber to argue its case but, if the questions that I have posed are answered, I can be persuaded. However, if I am to support the measure, those issues would first require to be addressed.

I turn to an issue that the minister knows is close to my heart, which is the transportation of puppies to Scotland for sale in this country. The minister has undertaken to introduce measures with regard to that in the regulations that will follow on from the bill. We cannot regulate the trade, because it originates in the south of Ireland and comes into Scotland through ports in the south of the country via Northern Ireland, but I want to make the scale of the issue plain. We are not talking peanuts: the dealers who bring the puppies into the country make hundreds of thousands of pounds. They charge £500 per puppy and yet bring them into the

country in horrendous conditions. Five or six puppies of different breeds are often packed into carriers—small and large puppies squeezed in together—and yet we cannot prevent that from happening because the trade originates in another country. However, we can regulate for what happens in Scotland. I welcome the fact that the minister has undertaken to introduce measures by way of regulations.

When the puppies arrive in this country, they are often very ill. Puppies have been found to be suffering from conditions and diseases including fleas, lice, diarrhoea, dehydration and urine scald; some have been found to have the deadly parvovirus. People buy them nonetheless; they look pretty—I have a picture of one with me—and people always love pretty puppies. People buy a puppy only to find that it is ill and, despite large veterinary bills, they often keep the animals and are heartbroken at their situation. People are trapped into supporting the trade.

Anyone in Scotland who acquires a puppy for resale, either as an individual or as a trader, should have a record of the animal's life history. They should know where it started out, how it was transported, who its dam was and so on. The animal should have a microchip and veterinary checks should be done on arrival at the establishments where the puppies can be bought. Again, on arrival, the puppy should be vaccinated unless there is documentary evidence that that has been done in the country of origin. Perhaps, by regulating the trade in that way in Scotland, we can prevent the horrendous breeding of these animals in the south of Ireland.

We have many issues to debate at stage 2 and stage 3. As usual, given that much of what is proposed will be introduced by way of regulation, the devil will be in the detail. I hope that we do not end up with a debate that focuses on tail docking, serious though that issue is, and that all the other issues are debated fully. My speech focused on animal welfare and did not touch on animal health, but that issue, too, is important, given that it impinges on animal welfare. I welcome the bill.

10:08

Irene Oldfather (Cunninghame South) (Lab): I declare an interest as a member of the cross-party group on animal welfare and as a lifelong vegetarian. Members will therefore not be surprised to hear that, in the main, I will address part 2 of the bill.

So far, the debate has been a good one. Members across the political spectrum have made interesting points. I hope that we can develop and discuss those points further as we proceed to stage 2 and stage 3. I want to highlight some of

the positive aspects of the bill. Given that this is a stage 1 debate, I hope that I can also identify a few areas in which there may still be scope for further discussion on areas of concern.

Richard Lochhead has stolen my Ghandi quotation. I will not repeat it other than to say that the way in which we treat animals is a measure of a humane society. The bill represents a significant and important step forward in driving up animal welfare standards; it will effectively bring animal welfare legislation into the 21st century.

As we heard from the minister, the bill will update and strengthen a variety of legislation, some of which dates back to 1912. The bill will introduce, for the first time, a duty of care for animals; that measure will enable local authorities to take further action that could lead to the conviction of animal keepers who provide inadequate care that leads to suffering.

My main point concerns animals in circus performances, an issue on which I have received significant correspondence from constituents. I wrote to the minister to enquire about the possibility of including provision for such animals in the bill. In his reply, the minister stated:

"under the Bill, the duty of care, provided for in section 22, may mean that it will be more difficult for circuses to use animals in their performances."

However, he also said:

"the Scottish Executive has no intention of banning circus performances using animals."

He went on to say that

"it will become an offence if a person does not take reasonable steps to ensure that the needs of"

an animal in their care are met "to the extent required" by the bill. He made specific reference to the fact that those needs include:

"a suitable environment; a suitable diet, to be able to exhibit normal behaviour patterns, to be housed with, or apart from, other animals, and also to be protected from suffering, injury and disease."

It would therefore be worth while for us to consider and debate the issue further. Surely no one could argue that forcing a wild cat, elephant, tiger or lion to parade around a circus ring on a leash and live in a cramped cage at all other times is conducive to protecting the animal's basic welfare needs.

The minister's response leads me to conclude that we can do something about this issue. If there is a will and a desire to do so, I hope that discussions and debate on the subject can take place during the stage 2 debate. Further attention should be given to the point.

My next point concerns an animal's mental welfare and suffering. Sarah Boyack also raised

that issue. The point is inextricably linked to the issue of live animals being used in circus performances. It is clear that the bill should include a definition of unnecessary suffering in relation to an animal's mental health. I understand that SSPCA inspectors have pursued successful prosecutions on the basis that an animal was terrified. The point is relevant to circus animals.

The bill allows for Scottish ministers to make regulations for the licensing and registration of many animal-related activities. Surely there is scope for circuses to be included in the regulations that will be made to license livery yards and pet dealers. Another option would be to include circuses in the proposed register of animal sanctuaries. Perhaps the minister, in summing up, will make a commitment to look further at those suggestions.

John Swinburne (Central Scotland) (SSCUP):

On that point, I note in the explanatory notes to the bill that

"By taking a risk based approach to inspection visits"

of premises

"such as pet shops, animal boarding establishments, livery yards and riding establishments",

the Executive will make a 30 per cent reduction in inspections. How does that proposal go hand in hand with improving animal welfare?

Irene Oldfather: That question is one for the minister to answer. I am not a member of the Environment and Rural development Committee, so I was not party to the evidence that it took. Perhaps the minister will deal with the point when she sums up.

Animal welfare organisations have raised a point about the definition of animal. My colleague Maureen Macmillan also mentioned the point in her speech. The organisations are concerned that the definition does not include octopus, lobsters and crabs, for example. The minister is aware that a growing body of evidence is emerging, not least from the European Food Safety Authority panel on animal welfare. As recently as December 2005, the panel concluded that such creatures can experience pain and distress. I am aware that section 14 gives ministers the power to change the definition of animal over time, but I would like further consideration to be given to the issue before the bill is passed.

I am running out of time, but I want briefly to mention tail docking. I had intended to ask the minister to ensure that there are no exemptions from the provision. The debate on the issue will run on throughout stage 2, but I am delighted with the statement that the minister made on that issue.

The bill is welcome and will, no doubt, advance the rights of animals in our society. As such, it will

be welcomed throughout Scotland, but particularly by young people. When I visit schools and receive visits from young people to the Parliament, they often raise animal welfare issues with me. I am happy to support the principles of the bill.

10:15

Alex Fergusson (Galloway and Upper Nithsdale) (Con): As we have heard, the bill's key aims are to enhance the ability to respond to exotic disease outbreaks; minimise the risk of disease spread; introduce a duty of care for those who keep animals; and allow animals that are either suffering or in danger of suffering to be seized. No member has argued or will argue against those aims but, as is so often the case, the acceptable title, front cover and opening chapters of the book mask a few less acceptable elements in the plot. I will focus on two of those—other members have mentioned them, but I make no apology for repeating them.

The first is covered in paragraphs 90 to 94 of the Environment and Rural Development Committee's report, which are on section 10 of the bill, on livestock genotypes. The section deals specifically with TSEs—transmissible spongiform encephalopathies—which are sometimes known as prion diseases, of which the most prominent in this country has been bovine spongiform encephalopathy, which is supposedly linked with Creutzfeldt-Jakob disease and new variant CJD. In dealing with BSE and, in more recent times, foot-and-mouth disease, ministers of different political persuasions depended heavily on scientific advice in their decision-making process. They were right to do so, even if many of the scientific claims surrounding BSE, especially those involving its ability to jump species and to transmit to humans, have never been conclusively proved. Increasingly, many scientists and others question the prion theory and believe that it is just that—a theory on the cause of CJD that became accepted by the establishment but which has yet to be conclusively proved.

I do not question ministers' right to lean heavily on the available science when confronting the difficult decisions that must be made when dealing with a TSE outbreak; indeed, they have a duty to do so. If that duty is generally accepted, what possible reason can there be not to include in the bill a provision to require ministers to consult veterinary and scientific advisers before they use the extended powers to slaughter livestock that will be available if the bill is passed? Over the years, I have had many differences with Advocates for Animals, so I am pleased that representatives of the group are in the public gallery to witness me agreeing with the group that ministers will be able to slaughter animals "if they

think fit" in much broader circumstances than they can currently and without having to provide justification.

Paragraph 7 of proposed new schedule 3A to the Animal Health Act 1981, which will be inserted by section 1 of the bill, will allow ministers to order animals to be slaughtered whether or not they are infected by disease, have been in contact with infected animals or have been exposed to the disease. In anybody's language, those are fairly draconian powers. I agree with the committee's desire and that of other members to have reassurances in the bill with regard to those new powers.

Ross Finnie: The member has referred to proposed new schedule 3A, but does he accept that the words that follow that are that the ministers have to demonstrate that the slaughter is for the purpose of controlling disease? There will not simply be an utterance on the part of ministers; they will have to demonstrate that that is the purpose of embarking on such a course of action.

Alex Fergusson: I accept what the minister says 100 per cent, but that simply underlines my point. I cannot understand his reluctance to include in the bill a provision requiring scientific advice to be taken. I have absolute faith, more or less, in the present minister—

Ross Finnie: Steady!

Alex Fergusson: I was close to getting carried away. I just about have absolute faith in his decision-making powers, which were proven during the foot-and-mouth outbreak. However, with the greatest of respect, he is unlikely to remain the minister for ever, which is why we need reassurances for the sake of future parliamentarians and ministers.

My second concern is over the issue of tail docking, which, as has been proved this morning, is highly emotive. My concern is based on a lifetime's experience with dogs working in the countryside. I have no problems whatever with a ban on cosmetic docking and the removal of the whole tail. However, there is a huge difference between that and a ban on tail shortening for working dogs, which will result in far more distress and welfare problems than arise at present. Members are being seriously misled in that regard. Unlike cosmetic docking, which, I repeat, involves the removal of the whole tail, the shortening of working dogs' tails involves the removal of only about a third or a half of the tail. I point out for Christine Grahame, although she is not here, that the tail can still be wagged. The purpose of the procedure is not to be fashionable but to be practical; the aim is not to be cruel but to prevent future harm and distress.

Ministers rightly place great importance on individuals' responsibility towards their animals' future welfare. Owners of working dogs shorten their tails to secure that welfare, not to harm it. The procedure is both painless and bloodless, using modern techniques. Frankly, anyone who has witnessed the very sad whimpering of a spaniel with a broken tail or the blood loss that is caused by a damaged tail would never countenance the removal of the proposal to exempt working dogs, with a right of veto in the hands of the veterinary profession.

Irene Oldfather: Will the member take an intervention?

Alex Fergusson: I am afraid that I do not have time.

I cannot believe that the minister can dismiss so off-handedly the figures from Sweden following its outright ban on tail docking in 1989, which show that 35 per cent of working gun dogs suffer tail injuries by the time that they are two and a half years old. In the UK, a Kennel Club survey of undocked working gundogs showed that 75 per cent of Clumber spaniels, 20 per cent of English springer spaniels and 25 per cent of wirehaired Vizslas suffered tail damage. If the minister persists with the removal of the proposed exemption, I am sorry to say that he will be responsible for an increase in cruelty when he is rightly trying to bring about the opposite. If he is being driven by advice, it is not based on experience; if he is being driven by Westminster, as some have suggested, he is not half as sensible as I believe he is. I urge him to be driven by experience and leave well alone a system that currently works perfectly well and maximises animal welfare, which is otherwise well addressed in the bulk of the bill.

10:23

John Farquhar Munro (Ross, Skye and Inverness West) (LD): We have had an interesting debate in which there seems to be general consensus about what should happen. I generally welcome the bill and the impetus behind it to establish a duty of care on all animal owners. I hope that the duty will be used to deal with problem issues such as the keeping of animals in captivity in circuses and other establishments, about which many people in Scotland and elsewhere in the UK are rightly concerned.

As I represent a rural constituency, it will be no surprise to members that I am concerned about the Scottish Executive's decision to introduce an outright ban on tail docking for all dogs. I have had working Jack Russells all my life, every one of which has been docked. I regard that not as cruel, but as necessary for their welfare. However, I do

not support the docking of dogs' tails for cosmetic reasons. We must recognise that it is legitimate for, and a responsibility of, working dog owners to dock their animals for welfare, not cosmetic, reasons. Owners have a duty of care. An owner who does not dock a working dog puts it in danger of pain and suffering as a result of damage that it may incur in its working environment.

I fully supported the Executive's original proposal to allow exemptions for working dogs. A number of people have discussed the issue with me in recent months and there are good and practical reasons to allow such exemptions. I am disappointed that the plan has been rejected by the ministers because the Environment and Rural Development Committee concluded that a system of exemptions would be too difficult to implement and would not guarantee that some tails would not fall through the net, as it were. No system will guarantee 100 per cent compliance and I am sure that even if the Parliament bans tail docking, the practice will not stop. It would not be beyond the wit of man or even of the Environment and Rural Development Committee to come up with a system that is workable and effective, ensuring that most docking is done for justifiable reasons. Nevertheless, the Executive and the committee have recommended an outright ban. That surprises me. The bill should be amended at stage 2. We have heard from the convener of the committee that the debate is on-going; amendments may well be accepted at stage 2 to allow the docking of working dogs' tails, under strict controls. I am sure that all members would welcome that.

The aim of the bill is to establish a duty of care to all animals. Our duty of care to working dogs is to save them from the severe suffering that a damaged undocked tail can cause, of which there is plenty of evidence.

Mike Rumbles: Will the member give way?

John Farquhar Munro: I am just about to close.

The Deputy Presiding Officer (Trish Godman): You may take an intervention if you wish.

John Farquhar Munro: In that case, I will.

Mike Rumbles: The tail docking of working dogs is important because it is a welfare issue. There are two sides to the argument, both of which are for animal welfare. Will John Farquhar Munro join me in pressing the minister to grant a free vote to members on this issue, just as there will be a free vote on the issue in the UK Parliament?

John Farquhar Munro: Michael Rumbles makes an interesting point. I have always suggested that the Parliament would work much

better if we all had a free vote on every issue, but that has not been allowed. It is a debate for another day.

With the proviso that the minister and the convener guarantee that the stage 2 debate will consider the issue of tail docking for working dogs, I am prepared to give the bill my whole-hearted support.

10:28

Mr Mark Ruskell (Mid Scotland and Fife) (Green): On behalf of the Greens, I welcome the Animal Health and Welfare (Scotland) Bill. The principles are sound and the legislation is a long overdue addition to the Protection of Animals (Scotland) Act 1912. The Edwardian animal welfare acts were born out of a growing belief that a civilised and indeed a liberal society should treat those that are most vulnerable with compassion and care. Animals, in their multiple roles, form an intrinsic part of our society and need to be shown respect. Perhaps the most significant provision in the bill is the establishment of a duty of care on those who control animals.

I recently went out with an SSPCA inspector on his rounds and I saw many examples of horses in particular being left in muddy, overgrazed fields, in poor condition, with little food or water, poorly fenced in and with inadequate shelter. Such cases are difficult to prosecute at present because they are borderline under the definition of animal cruelty, but the new duty of care will allow such cases to be brought to court. It is clear that animals are suffering at the hands of people, whether that is as a result of ignorance about how to keep animals or plain insensitivity to their needs. That cannot be tolerated in 21st century Scotland.

It is clear from the animal health part of the bill that some lessons have been learned from the 2001 foot-and-mouth outbreak, when mathematical modelling ran amok in the countryside. Ross Finnie said in the committee that it was inconceivable that ministers would not consult scientific and veterinary advice over slaughter, but the minister is asking of us a blind act of faith. There are no legislative requirements and no limits to the powers of slaughter in the bill. Judicial review should be a last resort rather than a routine backstop in the middle of a disease outbreak. Likewise, the powers over vaccination are welcome in moving the way in which we treat disease forward, but I would like the provision for seeking veterinary and scientific advice to be mirrored in the powers over vaccination as well as slaughter.

The slaughter of companion animals needs to be approached differently from the slaughter of

farm animals; the approach that is taken should be sensitive to the needs of owner and animal. Likewise, the slaughter of wild animals needs to take full recognition of situations in which entire species may be resident in only a few locations around the globe. Those are both areas in which protocols need to be established through the bill. Of course ministers need to be able to move fast in the middle of an outbreak, but that means effective contingency planning in advance. There is no framework for that contingency planning process in the bill, but the minister should consider enshrining the best practice into legislation to require our preparedness to be the best that it can be in the event of an outbreak.

The second part of the bill concerns animal welfare. There was a great deal of focus in evidence taking on the issue of mutilations, in particular the tail docking of dogs. It is unsurprising that there has been vigorous debate on that subject this morning. As somebody who worked as a volunteer in a veterinary surgery in my teens, who grew up in the countryside and whose parents kept and bred working dogs, I was initially open to the idea that in some situations working dogs could benefit from having their tails docked. Throughout the evidence, though, I observed a weak case for docking that was based on nostalgia and tradition rather than a robust welfare case. The contradictions in the docking argument are rife. We are told that working breeds with thick, heavy tails are susceptible to damage, yet docking standards are applied to dogs with thin tails such as spaniels. As we all know, working breeds with long ear flaps are susceptible to cut ears when they are working in cover, but there is no breed standard for docking ears. Why is there a breed standard only for docking tails?

It is inconceivable that puppies do not feel pain when undergoing docking operations. I have watched a number of those operations and I have seen what is involved. Combining that with the evidence on the long-term negative impact on dogs' ability to communicate and maintain agility without a tail, I see no reason to maintain the illogical tradition of docking.

Irene Oldfather: In the Swedish study that Ted Brocklebank mentioned, 27 per cent of German shorthaired pointers had suffered tail injuries, which means that 73 per cent had not. Are we not in danger of overzealous legislation for the minority at the expense of the majority of dogs?

Mr Ruskell: The committee considered the evidence for and against tail docking. Exemptions to tail docking would not be workable. I am glad that the Executive has realised that and that it has realised that a ban is the only practical option. In any exemption regime, the presentation by spaniel owners of a shotgun licence or a shooting club

membership card is all that would be required to secure a legal docking operation from a vet. In completely banning tail docking, the minister will secure praise from the vast majority of vets and dog owners and he will send guidance to Westminster for the free vote on the issue there in the near future. The Executive is to be congratulated on taking a robust and pragmatic stance on the issue.

The final issue that I wish to raise is small animal sanctuaries. There are many dedicated people in Scotland who run such sanctuaries, but as we know and as we heard in evidence, a lot can go wrong in an animal sanctuary over the course of a year or two. It is important that we bring those small sanctuaries under legislation and that we regulate them. As the deputy convener of the Environment and Rural Development Committee, I would back up the convener's comments that subordinate legislation should be introduced on that issue sooner rather than later.

The bill is sound and it is another important milestone in making Scotland a more compassionate, modern and socially democratic country that can hold up its head next to all the other best small countries in the world.

10:35

Ms Rosemary Byrne (South of Scotland) (SSP): The Scottish Socialist Party welcomes the bill's general principles, and I, as a lover of animals—particularly dogs and horses—am pleased to speak in the debate. We welcome the fact that the bill represents a step forward in ensuring improved welfare conditions for animals while also ensuring that those who care for animals are aware of their responsibilities.

We also welcome the measures on vaccination, slaughter and events such as rural shows to help to prevent disease, especially in light of the spread of bird flu. Millions of animals are reared and slaughtered in the farming industry and it is incumbent on us to do that humanely.

The majority of animals are cared for well and responsibly, but we are aware that, sadly, that is not the case for all and we fully support the measures in the bill that will allow the authorities to intervene before an animal suffers. The increased responsibility that is placed on owners and handlers can only be good, as long as it is accompanied by the resources that are necessary to follow through those good principles.

However, we have concerns on some areas of the bill. I will concentrate on two: tail docking and powers of slaughter. Tail docking cannot be allowed to continue in the 21st century other than for medical reasons. Dogs are pack animals and need their tails for communication. That is even

more important in puppies, as they are learning their social skills for later life. Research demonstrates that puppies with docked tails show higher levels of stress and aggression than those without docked tails.

Mr Brocklebank: Rosemary Byrne refers to the point that tail docking makes it more difficult for dogs to express themselves. If she had been at the gathering that the Countryside Alliance organised this morning and had seen the many happy dogs that were on display, not with their tails cropped right up to the base of the spine but with a section of the tail taken away, wagging their tails perfectly happily and responding to the cameras and other things that were happening, she might have changed her mind on that.

Ms Byrne: I doubt that I would have done, because I have consulted widely on the issue. I have spoken to my local vets in Irvine and have been assured that what I have said is the case, so we will agree to differ on that.

There is strong evidence that docking causes pain. Puppies have fully developed nervous systems and can feel pain. There is also evidence that docking can lead to complications in later life: the stump of the tail can be painful due to the formation of nervous tissue scarring. Norway, Sweden, Switzerland, Finland and Germany have all banned docking and it is interesting that, despite many claims to the contrary, there is no proof that there has been an increase in tail injuries in those countries as a result of the ban.

Under the Animal Health Act 1981, the Executive is able to slaughter animals that are infected with disease, have been in contact with diseased animals or have been exposed to disease in any way. However, under the bill, ministers will be able to slaughter animals "if they think fit". That is far too wide and general a term and would allow ministers to slaughter animals without having to provide a good reason. The proposals would allow slaughter whether or not the animal was infected, had been in contact with an infected animal or had been exposed to the disease in question, and would deny people any grounds to challenge the ministers' use of slaughter powers. We cannot allow distress such as that caused to the farming community during the foot-and-mouth outbreak to be caused again. We cannot pass a bill that would increase ministers' powers to slaughter animals and compound owners' and handlers' distress in an already stressful outbreak of animal disease. The slaughter powers must be restricted so that they cannot be exercised until ministers have sought and considered veterinary and scientific advice.

The SSP welcomes the bill, especially the provisions that give the authorities the right to intervene at an early stage, thereby reducing the

harm that is done to an animal, but we have some concerns and await further clarification from the ministers on various parts of the bill as it progresses. We want further work to be done on ragwort. That weed frequently kills horses, but we do not treat it seriously enough. Regulations on ragwort exist, but they are not always put into action properly. For example, our railway operators and those who are in charge of our roads do not always get rid of ragwort. It can be seen at the side of roads and is a serious problem for horses.

We will raise more questions on the regulation of sanctuaries, the trading of pets—especially on the internet—and the prohibition on keeping certain animals, especially primates. I am glad that Christine Grahame talked about puppy farms. We also want to take matters further on that issue. We also realise that owners and handlers must be reassured about their responsibilities and hope that the bill will be accompanied by the required resources and an education programme on animal welfare. We regard such an education programme to be vital.

We will support the bill, although we look forward to having the opportunity to lodge amendments to strengthen it at stage 2.

10:41

Dr Elaine Murray (Dumfries) (Lab): As we have to declare interests, perhaps I ought to declare that I am a member of the SSPCA, the Dumfries and Galloway Canine Rescue Centre and Dumfriesshire Greyhound Rescue, as well as being a horse, dog, cat and fish owner.

I am grateful for the opportunity to make a short speech in the stage 1 debate on a welcome and important bill. I am not a member of the Environment and Rural Development Committee, nor have I been able to attend any of its meetings due to the clash of timetable with the Education Committee, but I welcome the bill's general principles. However, as one whose constituents were particularly badly affected by the foot-and-mouth outbreak five years ago, I ask the ministers to reflect on the important points that Maureen Macmillan made on whether the powers of slaughter need to be amended.

I will confine my comments to a particular animal welfare concern to which Rosemary Byrne has just referred: common ragwort. That will be no surprise to the ministers. Ragwort is a common wild plant—many parts of the Scottish countryside are covered with its yellow flowers during the spring and summer—but many people do not recognise it. When I was a child, it tended to be found on cliff tops and near the sea, where its population of cinnabar moth caterpillars was always a source of

fascination to me. However, nowadays, it can be seen on rough ground and in fields and hedgerows all over the countryside. For any members who do not know what it looks like—it is amazing how many people do not know what it is—I have a picture of it with me.

Unfortunately, ragwort contains a highly toxic alkaloid that is especially poisonous to horses. It is also, to a lesser extent, poisonous to cattle and even sheep, which always rather worries me, because some people use sheep to control it. A horse may die if, over its entire lifetime, it consumes only 0.5 per cent of its own body weight in ragwort. As the average horse weighs half a tonne—if it stands on your foot, you are fairly sure that it weighs half a tonne—that means that a horse has to consume only about 1kg of ragwort to die. Ragwort poisoning is cumulative and its effects can be delayed for weeks or months. It attacks the animal's liver and causes a slow and painful death, but it is difficult to prove that it was the cause of death. At the moment, that tends to require a liver biopsy, but many people do not instruct one when a horse dies. However, I understand that a skin test is being developed, which should make it easier to prove the extent of the poison.

Ragwort is also poisonous to people, who ought to protect their hands when pulling the plant. If I have liver damage, it was caused by looking at those cinnabar moth caterpillars and is nothing to do with my subsequent lifestyle.

John Scott: Elaine Murray has obviously studied the bill much more closely than I have. Is the balance right on accidental ragwort poisoning? She and I know a great deal about ragwort and know how difficult it is to get every last piece of it out of a field or a bail of hay. I would be grateful if she would talk about that.

Dr Murray: I will talk about that, because there are issues with the bill on that.

The control of ragwort is currently covered by the Weeds Act 1959, the Environmental Protection Act 1990 and the Town and Country Planning (Scotland) Act 1997. John Scott mentioned the contamination of forage by ragwort. That is particularly dangerous to horses because, although horses might eat ragwort in the field, they are more likely to eat dried ragwort in hay. Forage contamination is covered in the Agriculture Act 1970 and the Feeding Stuffs (Scotland) Regulations 2000 but, despite that legislation, ragwort still grows in fields that are grazed by horses and cattle and it is still found in proximity to forage crops. The bill presents an opportunity to provide information and education on the hazards of ragwort to horses and other vulnerable animals and it will give more force to the existing legislation.

Stewart Stevenson: Will the member take an intervention?

Dr Murray: Sorry. I have only a minute and a half left.

In evidence to the committee, the British Horse Society suggested that statutory improvement notices could be used when a horse is being exposed to ragwort and it is likely that it will ingest the plant. It proposes the application of enforceable notices that state that either the horse or the ragwort must be removed. It also suggests that section 20 should be amended to refer specifically to ragwort poisoning, although I note that the minister responded by observing that section 22 places a greater onus on people who own or work with horses to take steps to avoid ragwort poisoning.

The BHS stressed that there is an opportunity to use animal welfare codes and the regulation-making powers in the bill to regulate ragwort control. That might involve statutory guidance that is similar to the Department for Environment, Food and Rural Affairs code of practice that was introduced south of the border by the Ragwort Control Act 2003, so we might be able to bring our legislation into line with the English legislation.

I seek clarification of the responsibilities of the owner of the horse when the horse is on loan to other individuals or is kept in livery stables and maintenance of the land is not the responsibility of the owner. The bill suggests that it is solely the owner's responsibility to remove ragwort from forage. It suggests that the owner should go through the hay to look for ragwort. In the winter, horses consume large amounts of hay and it is difficult for owners to go through it and look for bits of ragwort. I think that the person who produces the forage has a responsibility to ensure that it is not contaminated with ragwort. I ask the minister to provide some clarification on that.

10:47

Stewart Stevenson (Banff and Buchan) (SNP): To date, I have not been party to consideration of the Animal Health and Welfare (Scotland) Bill, but as someone who lives in the country and has a wide range of constituents whose lives will be touched by the bill in one way or another, I welcome the opportunity to mention some of the concerns that they properly have.

In the minister's opening remarks, he referred to companion animals. Section 14(1) defines an animal as

"a vertebrate other than man."

It is a matter of deep regret to me that it does not appear to be possible to extend the definition to include man and thus ensure that my wife treats

me with the same care as she deploys in looking after our two cats. Nevertheless, it might be possible to address that issue at stage 2.

Ross Finnie: Will the member suggest the wording for an amendment, so that I can give it some consideration?

Stewart Stevenson: It would be, "At line 34 on page 27, delete from 'other' to 'man'."

Our lives are touched and enriched by companion animals, but animals are equally important in the agricultural environment and I welcome the provisions in the bill that will improve the situation for them. Like other members of the SNP, I have no difficulty in supporting the general principles of the bill.

In extreme circumstances, everything goes out of the window. The most recent occasion of which I have any particular knowledge was the siege of Paris some 150 years ago, when dogs were sold for human consumption. They cost 1 franc. Cats cost 50 centimes and rats cost 25 centimes. However, I suspect that we are no longer likely to use animals in that way.

In an earlier intervention, I mentioned farms and the ownership of animals. I invite the minister to think carefully and at greater length about that. It is generally agreed that we have a big problem with recruiting youngsters into the farming industry. One way in which youngsters can become involved in the family business is through their having their own animals and the right to buy and sell them under supervision—I am not talking about unsupervised activity. That engages them in the real-life concerns and the economy of the farm. I would regret it if families such as my neighbours in Banffshire were unable to have their lambs, to rear them and to feel a sense of pride in preparing them for market. I hope that we will be careful to send out the right messages even if we do not change a single word in the bill.

Section 14(3) contains the power for Scottish ministers to make provision that

"extends the definition of 'animal' so as to include invertebrates".

Fishermen will watch the exercise of that power with great care and perhaps with a degree of suspicion. I hope that it will not open the door to further restrictions on our already beleaguered fishing industry. I mention that for future reference.

I have a few miscellaneous comments that touch on the Parliament's inability to exercise all the powers that we need to exercise. We can probably ban the recording of animal fights but we cannot ban the broadcasting of animal fights. Nowadays, of course, broadcasting is not controlled simply by the Radiocommunications Agency. Things are broadcast on the internet, which is entirely

unregulated. I am not sure that we can address that, but perhaps we can.

Secondly and more subtly, given my interests, pages 7, 9, 10, 13, 24 and 46 of the bill give a definition of premises that includes vessels and vehicles but does not include aircraft. If someone who has a rare breed of fowl wishes, in extremis, to protect their birds from slaughter, all they need to do is to keep them in an aircraft. There is no power in the bill to allow inspectors or slaughterers to enter aircraft. There is a farmer in the Parliament who has at least two aircraft in his constituency that would be suitable for that purpose. One of them is G-BOAA—that is the registration of the Concorde that is kept at the Museum of Flight at East Fortune. It is still on the register of aircraft that is maintained by the Civil Aviation Authority—I checked yesterday—and it is the aircraft in which I first flew when my wife and I took our honeymoon. The aircraft whose registration is G-ASUG, which is also in the museum, could be used for the same purpose.

The Animal Health Act 1981 provides powers throughout Great Britain for people to enter aircraft, but only for the purposes of horses and not for the purposes of fowl. The Animal Welfare Bill, which is being considered at Westminster, does not provide for the power. The omission in our bill is entirely due to the fact that we cannot include aircraft because the Parliament does not have the power to do so. That is worth thinking about. In the Westminster bill, we have been able to ban transport by air within the British isles, although, interestingly, not via Ireland or Northern Ireland. The Prevention of Terrorism Act 2005, which covers flights, might cover the matter. However, we see that, as is often the case, some details in the bill touch on the constraints within which the Parliament operates.

I have at the front of my mind a regular visitor to my surgeries. He is called Arnie and he is a greyhound who has been abandoned, as so many have. If the bill makes life better for the Arnies of the world—and the many other pets that we have—it will serve a noble purpose indeed.

10:54

Alex Johnstone (North East Scotland) (Con):

I begin by drawing members' attention to my entry in the register of members' interests. For the avoidance of doubt, members will see that I am not only a farmer but a partner in my family farming business, which is based on dairy farming and other livestock interests. I am also a member of several organisations that hold many and various opinions on the bill.

While we are considering the bill, we must consider its purpose. The object of the exercise is

to improve animal welfare. As a consequence, we must concentrate on what is about animal welfare and what is being driven more inappropriately by public opinion. During his opening speech, Richard Lochhead did us all a favour by raising the subject of public opinion and its effect on how we think about animal welfare and how we should frame legislation.

We must be decisive in how we do this job. We need to ensure that we are dealing genuinely with animal welfare and not legislating on the welfare of animals simply to salve the opinions of certain elements of the public who have been affected by some very disturbing images in recent years.

The first issue that we must address is the impact of the foot-and-mouth outbreak. We have seen that in public opinion and we also see it in the bill, to some extent. Being a livestock farmer, I would be the first to say that the minister must retain the power to act swiftly and decisively in the event of an outbreak of a virulent disease such as foot-and-mouth. It is absolutely essential that Parliament does nothing that will slow that process in passing the bill. If it does something that means that we would have to go through a complex consultative process before ministers could demand slaughter or other action, I would not support the bill.

At the same time, I am concerned that the minister repeatedly states that he would never take such decisions without first taking veterinary advice, but that is not written in the bill. It is unreasonable for the minister to deny Parliament the right to place it in the bill. With the proviso that I have suggested about the speed of the minister's decision-making process, I believe that it is essential to get that on the face of the bill.

In the same area of the minister's decision-making powers, I am concerned about some of the changes to the opportunity to use vaccination as an alternative to slaughter, particularly in circumstances such as a foot-and-mouth outbreak. I have had experience of vaccination and the attempt to control disease in farmed animals. The attempt to use a vaccination programme to eliminate brucellosis from Britain's cattle population affected my business. Animals that were vaccinated to prevent them from getting or carrying the disease were indistinguishable from animals that had or had had the disease. Consequently, when I first became a farmer in my own right in the early 1980s, I was still having cattle taken away and destroyed because of inconclusive results of brucellosis tests. That happened entirely because animals had been vaccinated against the disease. Therefore, it is essential that, before we use vaccination as an alternative to a slaughter policy, we are absolutely confident that there is no confusion between an

animal that is vaccinated and one that has the antibodies as a result of exposure to the disease itself.

In the evidence, it appears that there are hopes that scientific advances might deliver improvements in our ability to distinguish between the two situations. However, when the minister mentioned that in his opening remarks, he appeared to make it clear that many of those scientific advances are not yet with us. Therefore, we should not vaccinate cattle against foot-and-mouth disease in similar circumstances in Scotland without first having a 100 per cent guaranteed way of distinguishing between the vaccinated and the previously infected. If we go down the road of vaccination without having the ability to differentiate, Scotland's farmed animal population could find itself isolated for generations to come. Economics mean that Scotland's farmers cannot afford for that to happen.

A couple of other issues have been raised during the debate that I cannot allow to pass. One thing that I would not have mentioned had it not been mentioned by Irene Oldfather is circuses. Over the years, I have often seen wee lassies outside circuses handing out bits of paper that are designed to encourage people to think that keeping animals in circuses is inappropriate. I am the first to agree that the presence of wild animals in travelling circuses is entirely inappropriate. At the same time, I have to stand up and say that the symbiotic relationship that exists between certain species and the human race goes back to well before civilised times. It ought to be celebrated on a cultural basis. When it comes to dogs, horses and, perhaps, even elephants and camels, there is a good case for the Parliament and the Executive supporting the continuation of the use of animals in circuses in properly regulated circumstances.

Irene Oldfather: Will the member take an intervention on that point?

Alex Johnstone: I am just about to finish.

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

Alex Johnstone: I will take a brief intervention.

Irene Oldfather: I find it very strange. Is the member seriously suggesting that performing circuses, for example, can serve the welfare of animals such as elephants and provide them with as suitable environment as their natural habitat?

Alex Johnstone: I referred to elephants as part of a list of species that have had a long-term symbiotic relationship with the human race. The circumstances in which they are kept in circuses are open to regulation. For cultural reasons, we should not be opposed in principle to their being kept.

Many members have mentioned tail docking. I do not want to dwell on it, but I will make one comment. Across the country, and particularly in the veterinary profession, there has been a long-running debate on the docking of dogs' tails. I am the first to agree that we should be opposed to the docking of dogs' tails for cosmetic reasons; it is unjustified on welfare grounds. However, the docking of working dogs is quite a separate debate. Before we pass the legislation, it is important that we have an adequate opportunity to consider the docking of working dogs for welfare reasons, and we should treat that issue entirely separately. The BVA's views are predicated on the debate about companion animals and do not necessarily relate to working dogs. Vets who work with working dogs agree, almost to a man and a woman, that dogs should be docked if their welfare is in danger because they are not docked. There is an opportunity for us to allow the continuation of tail shortening for working dogs on the basis that it is a welfare advantage not a disadvantage.

The legislation is valuable but it must be considered in significantly greater detail before we finally approve it.

11:03

Nora Radcliffe (Gordon) (LD): I start by saying how widely welcomed the bill has been, particularly because it will achieve a fundamental change in moving from punishing people for cruelty to animals to promoting animals' welfare. The fundamental ethos of the bill is very welcome indeed.

Ministers' extended powers in relation to the slaughter of animals are one area of part 1 of the bill that seems to have stimulated a lot of response. It is widely accepted that the extension is perfectly appropriate and reasonable, but there is a degree of concern that the fact that the powers will be used in the light of veterinary and scientific advice is not explicit in the bill. We are told that that is implicit, but there is still an argument for putting it on the face of the bill to give comfort to those who have concerns. No one seriously expects that such powers will be misused or abused, but if the fact that they will be used only in the light of scientific or veterinary advice is implicit, I see no reason why it should not be explicit.

The issues relating to vaccination were adequately covered by Maureen Macmillan and Alex Johnstone whose comments I endorse. Part 1 concerns the prevention of disease and the control of outbreaks. Its effectiveness will lie in the secondary legislation on biosecurity codes—some of which will be mandatory—and the contingency plans relating to a variety of animal diseases and

import controls. I endorse Sarah Boyack's salient points on those, particularly on import controls. More needs to be done on the timing of the introduction of secondary legislation.

Several issues around animal gatherings need to be resolved, including what is meant by the term. We must also resolve how to address difficulties in dealing with informal and intransient collection points. Those are where the dangers are most likely to lie but are the most difficult to regulate or legislate for.

All mutilation of animals will be banned with certain exemptions outlined in secondary legislation. That is the appropriate way to ensure that standards are set that reflect the most up-to-date good practice, informed by advancing scientific knowledge and understanding. It will be important to make the distinction between good and common practice.

On tail docking, we all gave the evidence careful consideration. We have explored the difficulties of limiting tail docking to dogs that will be used as working dogs. Evidence on the incidence of injury is not available. If the legislation eventually comes down on the side of a total ban on tail docking, I will be seeking assurances—should evidence of increasing injury to adult dogs emerge—that swift action will be taken to change the regulations. It is very difficult to prove a negative. We are assured by people with great experience of working dogs that not docking, or partially docking, tails will result in injury. How can that be proved when tails have already been docked? If we go down the route of a total ban on tail docking, we must be alert to any evidence that emerges and be ready to address it quickly.

I welcome the intention to increase the maximum penalties for cruelty to animals. It reflects the seriousness of such offences. I also welcome the inclusion of the recording of animal fights as an offence. As the minister said, the practice is abhorrent and also underpins a vast criminal enterprise and illegal betting with much money tied up in it. It is far more prevalent than most of us realise and is associated with other forms of criminal activity.

The introduction of care orders is a further welcome addition that reflects the positive and proactive ethos of the legislation. On the registration and licensing of animal sanctuaries, I do not believe that the size of a sanctuary is the best way to prioritise an inspection regime. Difficulties will most likely lie with smaller, informal sanctuaries that may have grown out of control, or because the person who started it has moved on. Size is not the most appropriate filter in prioritising how we deal with animal sanctuaries.

The committee stage 1 report and this debate have highlighted some of the issues that need to

be resolved. I concede that many of the points that Stewart Stevenson made would not have occurred to me. For example, I never thought that we would be considering aircraft registration in the debate.

This is a fundamentally good bill that will be further improved in its passage. It will do much to improve animal welfare in Scotland—sooner rather than later, I hope.

I support the general principles of the Animal Health and Welfare (Scotland) Bill.

11:10

John Scott (Ayr) (Con): I declare an interest as a farmer and member of the National Farmers Union.

It is appropriate that this stage 1 debate occurs almost 10 years to the day since BSE hit Scottish and British agriculture. The date 20 March 1996 will be forever etched on my memory, when the catastrophic news was broken to the NFU at Ingliston and the full implications of the disaster became apparent. It was immediately evident that, despite the best advice and efforts of the Spongiform Encephalopathy Advisory Committee—the SEAC committee—and the Swan committee, no one saw the problem coming. Consequently, the Government had no plans in place because, until it was announced on 20 March 1996, the best scientific advice stated that there was no problem. Having no plans in place to deal with the threat to human or animal health and welfare was a nightmare. That is why the Animal Health and Welfare (Scotland) Bill is to be welcomed.

It is essential that the lessons of the past 10 years are taken on board. In those 10 years, both human and bovine life has been tragically lost to E coli 0157:H7, foot-and-mouth disease has devastated the countryside and we are now on the cusp of an outbreak of avian flu. Without wanting to sound too downbeat, I know from bitter experience that in farming, where livestock are concerned, if it can go wrong, it will go wrong. The need for contingency planning is paramount. I urge the minister to ask poultry producers to put their birds indoors before it becomes too late for some unfortunate flock.

As Ted Brocklebank said, the Conservatives welcome the bill's general principles. However, much clarification will be needed at stage 2. Although I do not envy the Environment and Rural Development Committee its job, I wish it well in making the bill's provisions as exact and as tight as possible for the subsequent avoidance of doubt. For example, as Alex Fergusson, Nora Radcliffe and Richard Lochhead said, supplementary slaughter powers must be defined on the face of the bill. I agree that, ultimately, such

decisions must rest with the minister of the day, but the term “if they think fit”, while perhaps intentionally loosely drafted, is not sufficient for those whose livestock and livelihoods depend on it. One does not expect a minister to be whimsical about such a situation, and I know that Ross Finnie would not be. However, the decision would need to be taken on the basis of best scientific advice. Consequently, in relation to such a life-and-death provision, that must be clearly stated on the face of the bill, especially since the bill also covers the mental welfare of animals. Given Sarah Boyack’s apparent support for that position, it might be a point worth conceding, for a quiet life.

Alex Johnstone mentioned the provisions on vaccination, and Mark Ruskell endorsed them less than whole-heartedly. They need further thought. Guidance in that area will require constant upgrading.

I have already highlighted the need for contingency planning. I agree with the Environment and Rural Development Committee and the minister that the need for transparent and well-researched contingency plans has never been greater. The threat of importing foot-and-mouth disease from countries where it is endemic is both large and constant. The spread of bovine tuberculosis to Scotland is inevitable as Government in England fails to take appropriate action to halt its relentless spread north. That is why Scotland must plan to prevent its arrival.

Ross Finnie: Will the member concede that the pre and post-movement testing that was introduced in Scotland has gone a long way towards tackling the problems of the inadvertent movement of livestock caused by the failure to have similar measures south of the border?

John Scott: Of course I concede the point. I accept that the minister has genuine concerns about the issue and is doing his best to address it. However, I trust that he will concede my point that the disease is spreading northwards relentlessly.

Conflicting evidence on TSEs tells us only that the problem is still not fully understood, far less resolved. Until the nature of and solution to the problem is clearer, contingency planning is likely to be ineffective and, at best, inappropriate. We should remember how long it has taken us to understand BSE and to get to grips with its consequences—Alex Fergusson alluded to that.

Section 18 of the bill deals with mutilation. I welcome the practical approach of excluding farm animals when what are regarded as the codes of best practice are followed. Like Alex Fergusson, Mike Rumbles and John Farquhar Munro, I believe that that pragmatic, commonsense approach should also apply to working dogs. Although I understand why the minister has changed his

position and even sympathise with him, I believe that his initial view was correct, because docking of working dogs is carried out only with the welfare of the animals in mind.

As Stewart Stevenson entertainingly noted, the provisions relating to selling of animals to children raise the interesting possibility of farmers’ sons and daughters being able to own land but not the livestock on it until they are 16. They would be expected to tend that livestock, although they would not be able to own it.

I am certain that, as Ted Brocklebank noted, the concept of abandonment will give rise to much more heated discussion at stage 2.

I regret that the bill will abolish coupling shoes for Clydesdale horses. I have spoken to people with a lifetime’s experience of Clydesdales—farriers, owners and vets. The best veterinary advice in the country that I can access, which is at the highest level, indicates that the practice is cosmetic and is utterly harmless. Because Clydesdales are not performance animals, they do not move at speed and inflict no damage on themselves when they have coupling shoes.

With the reservations that I have expressed, I welcome the bill. As the minister would expect, Ted Brocklebank will lodge constructive amendments at stage 2.

Ross Finnie: Constructive amendments?

John Scott: Indeed.

The Deputy Presiding Officer: I call Rob Gibson to close for the Scottish National Party. He has nine or 10 minutes, if he can manage that.

Ross Finnie: He should speak slowly.

11:17

Rob Gibson (Highlands and Islands) (SNP): As is stated in my register of interests, I am a member of the Scottish Crofting Foundation.

After the minister’s opening speech, I was going to suggest flippantly that the bill is about corgis, that it is perhaps not about snails and that it is certainly about working dogs’ tails. Many of the provisions in the bill attempt to deal with issues that were legislated on 100 years ago. I am glad that we are bringing the legislation up to date to make it fit for a modern and social democratic nation.

The Scottish National Party broadly supports the approach that the Government has taken to many of the arguments that have been led on the bill. The potential arrival of avian flu in Scotland is one of the most serious issues that Parliament will have to face. I spoke to John Scott—long before I was elected—in the days following the

announcements about BSE, when I was the SNP spokesman on agricultural matters. Many people had theories about the multifactoral nature of the disease, which suggests that it takes time to establish what the problem is and to find solutions to it. Every rural development minister has to cope with that issue.

As the avian flu situation develops, we will ask the minister to address many different needs. The bill sets out opportunities for us to examine how we will deal with planning and pre-planning. I very much welcome the documents that have been circulated concerning "Scotland's Avian Influenza and Newcastle Disease Contingency Plan". However, I am concerned that the effects on areas of the country in which migratory birds arrive, of which there are many—the coasts and firths near where people stay, as Maureen Macmillan mentioned—might be greater than on city populations that have less contact with wild birds. The contingency plan should take into account the needs of people who live in such areas.

During the current avian flu outbreak, we must take seriously our duty of care for wild birds. According to the Royal Society for the Protection of Birds, Governments in south-east Asia have responded to some extent to the potential for wild bird culls, despite clear advice from the World Health Organisation, the Food and Agriculture Organisation of the United Nations and the World Organisation for Animal Health—the OIE—that control of the H5N1 virus by culling wild birds is not feasible and should not be attempted because it may accelerate the spread of the virus. I hope that the minister will take on board such views when he thinks about the contingency plan for Scotland.

Ross Finnie: I hope that the member found it helpful that, because our contingency planning tended to deal largely with exotic diseases, we published a revision towards the end of last year that dealt specifically with avian flu. As a Government, we have clarified that we accept the World Health Organisation's view that killing wild fowl would not be helpful and would not control the spread of the disease.

Rob Gibson: I am glad to accept the minister's statement. It confirms that we are thinking carefully about the effects that the bill will have on different aspects of life.

In his opening speech, Richard Lochhead talked mainly about issues related to culls and so on. We think back to the foot-and-mouth epidemic and other experiences that members such as John Scott have had. Alex Johnstone mentioned brucellosis. There is no exact science—we develop science as we go along. However, it is important for members of the Environment and Rural Development Committee to have a clearer

signal from the minister about how he will approach mass slaughter: members from all parties are seeking such definition.

The minister has said that he will, from the start of any fast-moving disease outbreak and on a continuing basis, keep Parliament informed of the actions that the Executive will take at key stages and decision-making times. That suggests that an effort will be made to tell Parliament what has happened, rather than to involve it in what might be done. If we are to have confidence in how the minister's machinery works and if the public are to support the powers that he seeks, which are very wide, a good deal of transparency will be required.

As members have said, attitudes to animal welfare have changed. The general population is a good deal more aware that working animals and farm animals, as well as wild animals and pets, deserve decent treatment in our country. For that reason, I must comment on the debate about the way in which veterinary opinion is formed. We cannot talk about vets' having a different attitude to animal welfare in rural situations from their general attitude, although of course many vets deal only with companion animals. We disagree totally with Ted Brocklebank and the Tories that the veterinary profession as a whole does not understand the issues relating to working dogs.

In order to define the situation, we have to take as much evidence as possible. I have notes from a vet who asked me before today's debate why owners of working cocker or springer spaniels feel that their dogs will receive tail injuries while working when other working dogs, such as Labradors, retrievers, setters and an even greater number of sheepdogs do not get tail injuries. Those breeds' tails are not docked.

Alex Fergusson: I hear what Rob Gibson says, but he has to accept that different breeds of dogs work in different ways and have different thicknesses of tails, as was mentioned earlier. They simply have different working practices.

Rob Gibson: I wonder whether the member seeks an exemption only for springers.

The vet to whom I spoke said that in his 40 years as a vet, he has never yet had to deal with a tail injury in any working dog of an undocked breed. That vet deals with working animals and the countryside community as much as with companion animals. The committee has to be careful in dealing with such matters.

Another matter that is pertinent to the bill but which is not dealt with directly is people's duty of care for animals, including wild animals. We have had quite a lot of discussion about how wild animals are fenced out or in. When we speak about deer, much opinion suggests that the way fences are used alters the deer's state to make

them wild or not wild. The ways in which deer can do damage to humans will be dealt with in another place, but the subject was raised in evidence during stage 1.

Many other matters have been raised by members throughout the debate. The SNP has considerable concerns about how licensing will be funded and we are concerned that provisions for financial matters in the bill might not add up.

There is another question about how the secondary legislation will be drawn up, as Sarah Boyack mentioned. It will be several years before the secondary legislation is introduced and the SNP is concerned about the resources in Government and the civil service to draw up such legislation for scrutiny in committee.

We will be interested to hear the minister's answers on major points such as those, although we support the general principles of the bill.

11:28

The Deputy Minister for Environment and Rural Development (Rhona Brankin): I am sorry for what has been described as a slow start, Presiding Officer—you will appreciate that I need to cover many points in my response.

We all agree that the general principles of the bill have attracted widespread support and I thank all members for what has been an informed and interesting debate. It is also right to acknowledge the substantial contributions that have been made by members of the public, who responded in large numbers to the consultations and to campaigns that were run subsequently by non-Government organisations and stakeholders throughout Scotland. The overwhelming reaction from all those channels—the committee, the public and stakeholders—has been positive, and the bill has had a warm welcome.

At this point, when we are debating the general principles, it is important to remember the broader context of the bill. In the animal health part, we are introducing legislation that acts on the lessons that have been learned from the Phillips inquiry into BSE, the foot-and-mouth outbreak in 2001 and the subsequent inquiries.

The bill will provide us with the flexibility to respond quickly to exotic animal disease outbreaks and minimise their impacts on Scotland. It will also help us to take actions to reduce the risk that outbreaks will occur.

Richard Lochhead: The minister will appreciate that avian flu and its threat to Scotland cropped up in the debate from time to time. Will she confirm to Parliament at what stage ministers would advise that poultry flocks in Scotland should be brought indoors?

Rhona Brankin: The current risk is low and the situation will be re-examined were we to move into the high-risk category.

For animal welfare, we are fulfilling a partnership agreement commitment to introduce legislation within this session of Parliament. Part of the bill is about consolidating animal welfare legislation and providing a framework of legislation for the foreseeable future.

I will try my best in my allotted time to cover as many as possible of the points that have been raised by members. Several members spoke about extended slaughter powers. The new powers in schedule 3A are specifically for

“preventing the spread of disease”.

The use of any powers under the bill must be reasonable and proportionate in order for it to be lawful.

In an animal disease emergency, all the relevant circumstances will be taken into account—including the advice of experts—before a decision to slaughter animals is taken. A key objective in our disease control strategy is to minimise the number of animals that need to be slaughtered. Any decision to use the extended slaughter powers in the bill would fall within the operation and procedural requirements of the relevant contingency plan. Such a decision would be on the basis of on-going advice, including veterinary advice, and discussion, including with stakeholders, about the specifics of the disease and the consequences of its continued spread. Proportionate action is likely to mean that fewer animals overall suffer or die from a disease outbreak.

I assure members that ministers cannot simply act on a whim without regard to available expertise.

Alex Johnstone: Will the minister take an intervention?

Rhona Brankin: I would like to continue. I am coming to several issues that Alex Johnstone raised in his speech.

Sarah Boyack and Mark Ruskell spoke about companion animals. The contingency plan makes it clear that local circumstances will be considered as part of the disease control response, but that that must be left to the judgment of the state veterinary service inspector.

Sarah Boyack and Rob Gibson spoke about regulations, which will be introduced as a priority to repeal provisions that require to be repealed. Priority will be given, for example, to the early introduction of regulations governing puppy imports. The aim is to have regulations in place within three years. I know that Christine Grahame

feels strongly about puppy imports and has a long record of campaigning on the matter. Other members also mentioned the practice. Provisions in the bill will allow us to introduce secondary legislation that would be similar to Christine Grahame's proposed bill. I can tell Christine Grahame that the draft Scottish statutory instrument will be available before stage 2; it will be one of the first pieces of secondary legislation to be introduced.

The definition of animal was mentioned. Maureen Macmillan asked us to keep a sense of proportion and other members mentioned the potential concerns of fishermen. Irene Oldfather asked us to consider the evidence on invertebrates. The central focus of the bill is on the capacity of animals to experience pain.

Alex Johnstone: Will the minister give way?

Rhona Brankin: I will make this point, if the member will allow me. Vertebrates are known to experience pain and suffering and most animal welfare legislation focuses on vertebrates. Evidence on invertebrates is conflicting and inconclusive.

I say to Irene Oldfather that we can—on the basis of scientific evidence becoming more conclusive than it is currently—expand the definition to include other species through secondary legislation.

Alex Johnstone: There is a problem with the definition. At least one animal genetics company in Scotland has offered semen and embryos as prizes at livestock shows and sales. Given that such products are not necessarily vertebrates but of vertebrate species, will that practice be rendered illegal by the bill? Will it be necessary for amendments to be made to the bill in order for that practice to continue after the bill has been passed?

Rhona Brankin: I am grateful to Alex Johnstone for raising what is obviously a hugely important issue for him, and for allowing me to talk at greater length in my winding-up speech. I look forward to the member raising the matter again at stage 2, when I will be delighted to discuss it with him.

Members will know that we have announced tough new powers relating to illegal dog fights. The proposals will make it an offence to make, show or distribute films of animal fighting in the United Kingdom. Stewart Stevenson asked whether broadcasting of dog fights is illegal and was, of course, right to say that the matter is reserved. I know that he will be delighted that we are working closely with our colleagues in England, and that he will welcome the fact that DEFRA proposes to prohibit the broadcasting of animal fights throughout the UK.

On the docking of dogs' tails, we have listened to the evidence that was given to the committee during stage 1 and have been persuaded that there is no conclusive case for an exemption to allow docking of working dogs to continue. Ministers will be able to introduce exemptions through secondary legislation if, once a ban is in place, evidence shows that working dogs are experiencing more tail damage as a result of the ban on docking.

Several members have referred to the Swedish study, but it has been shown by the Swedish Ministry of Agriculture, Food and Consumer Affairs to be unscientific. The report was based on a small number of animals of one breed and no veterinary evidence was included. Furthermore, it was not a controlled study and it has not been peer reviewed. We simply cannot act on the basis of such evidence. I was rather appalled by Ted Brocklebank's assertion that vets do not understand the issue of tail docking.

Mr Brocklebank: Will the member give way?

Rhona Brankin: No, I would like to continue because I am running out of time. Mr Brocklebank might get another mention as I continue.

Maureen Macmillan, Stewart Stevenson and John Scott mentioned young people owning animals and the importance of that. Young people will be able to own animals and, indeed, it will be possible for them to register animals in their name, although an adult will of course be responsible for the animal's welfare.

We accept that some animal sanctuaries might not provide an appropriate level of care for animals, so we intend to regulate those establishments. We will legislate in that area as soon as is practical, but we will do so in a way that will exempt the smallest establishments. It is important that we act proportionately.

Irene Oldfather and others mentioned performing animals. We shall bring forward secondary legislation to deal with performing animals, including those in circuses.

John Scott asked about coupling. There are no proposals to ban coupling—full consultation would be needed if such a measure were to be introduced in secondary legislation.

On animal gatherings, any such gathering can pose a risk of disease, so our proposals to license gatherings will allow us to minimise the risk of disease spread through those gatherings. The primary focus will be on livestock and poultry gatherings and not on those that involve other species, such as horses and dogs.

The principles of the Animal Health and Welfare (Scotland) Bill are key components in giving us the necessary flexibility to respond quickly to

outbreaks of animal disease and thereafter to minimise their impacts in Scotland. Several members have mentioned avian flu. Of course, the finding of H5N1 in France is of concern and we are monitoring the situation, but it is not inevitable that H5N1 will be found in Scotland. Also, evidence suggests that people who have become infected with avian influenza have been in close contact with infected poultry. The housing of birds is not, currently, a proportionate response, given the level of risk. However, it is important to state that we are keeping such a move under review and that any decision will take into account the potential welfare impact on the birds concerned. The best defences are surveillance and good bio-security in industry, including measures to minimise contact with wild birds when feeding and watering.

By putting improved animal welfare at its heart, this bill also meets the challenge of placing animal welfare legislation on a firm footing for the course of the 21st century. I commend the principles of the bill to Parliament.

Question Time

SCOTTISH EXECUTIVE

General Questions

11:40

Defence Aviation Repair Agency (Market Testing)

1. Roseanna Cunningham (Perth) (SNP): To ask the Scottish Executive what meetings its Enterprise and Lifelong Learning Department has had regarding the implications of the market testing of the Defence Aviation Repair Agency establishment at Almondbank. (S2O-9091)

The Deputy Minister for Enterprise and Lifelong Learning (Allan Wilson): The Enterprise and Lifelong Learning Department has had no meetings on market testing at DARA Almondbank, but has been in correspondence with the Ministry of Defence at both ministerial and official levels.

Roseanna Cunningham: I thank the minister for his response—I think—although my question was directed towards the implications of the market testing, which is moving on, slightly. I am astonished that there have been no meetings, given that local parliamentarians are meeting DARA chiefs and that the local council is concerned on an all-party basis about the future of the establishment and wants to reassure the workforce that the jobs will be saved for Scotland. I would have thought that the Executive would be taking a slightly more proactive approach. Would the minister care to elucidate?

Allan Wilson: I acknowledge the member's constituency interest and reassure her that we are actively engaged with the MOD in relation to the implications, if any, of the market-testing exercise that is currently under way at Almondbank.

Perhaps Roseanna Cunningham is being a little premature and unusually pessimistic. DARA Almondbank is a world-class facility with a highly skilled workforce. The MOD has made no decision to sell DARA's components business. I will willingly engage with the member to discuss these matters more specifically if she wishes. However, I assure her that we are engaged with the MOD in order that we can ensure that the Scottish interest is looked after.

Gaelic Education

2. John Farquhar Munro (Ross, Skye and Inverness West) (LD): To ask the Scottish Executive how many people are studying the Gaelic language at further and higher education level. (S2O-9038)

The Deputy First Minister and Minister for Enterprise and Lifelong Learning (Nicol Stephen): From 2003-04 to 2004-05 there has been a notable and welcome increase in the numbers of people enrolled to study the Gaelic language in further and higher education. In further education colleges, the number has risen from 625 to 1,015 and at higher education institutions, the rise has been from 105 students to 185 students.

John Farquhar Munro: I thank the minister for that encouraging response. I am sure that he will agree that Gaelic is important to the cultural life of Scotland and that it is important that there are adequate numbers of teachers trained in Gaelic if we are to deliver the Scottish Executive's commitments. Does the minister share my concern that we need more people studying Gaelic in further and higher education so that the current shortage of Gaelic teachers can be addressed?

Nicol Stephen: That is important and, clearly, it is happening. We need to ensure that courses are available and we need to encourage a number of students on them to go into teaching. Clearly, however, not all of them will take that career option. How we encourage them to do so is important and is something that my colleague, Peter Peacock, and the Education Department will be involved in. We are determined to maintain and improve the quality of Gaelic education in our schools and in our colleges and universities. In my area of responsibility, the position in relation to Sabhal Mòr Ostaig is encouraging. It has a record number of students and we are hopeful that a funding announcement will be made in relation to the institution by the end of March. I believe that it will be a positive announcement.

Rob Gibson (Highlands and Islands) (SNP): Does the minister agree that people who are trying to get into Gaelic teaching and are perhaps taking part-time courses should have remission of some of their fees, which would encourage more people to enter the profession? We must top up the numbers who are available to teach in schools. Remission of further and higher education fees would offer a considerable incentive to Gaelic speakers to move into Gaelic teaching, which has not happened speedily enough to date.

Nicol Stephen: I am always willing to consider options in that regard. However, it is important that we have a system and structure that encourage people into teaching because it is an attractive and well-paid profession. That is increasingly the case in Scotland; reforms and the McCrone agenda have significantly improved the position of teachers in Scotland. That should have a positive knock-on effect for Gaelic teachers.

If we were to introduce many different schemes for many different subjects there would be difficulties to do with complexity and marketing the profession to individuals. I am willing to consider particular initiatives if there are particular or short-term problems that could be bridged, but my general approach is that we should make the teaching profession as attractive as possible and ensure that sufficient numbers of students come through the university and college system, so that enough people are encouraged into the profession and into other work with children, and that all places are appropriately filled.

Chernobyl Disaster

3. Chris Ballance (South of Scotland) (Green): To ask the Scottish Executive what lessons it has learned from the environmental and other impacts of the Chernobyl disaster on the 20th anniversary of the disaster. (S2O-9097)

The Minister for Environment and Rural Development (Ross Finnie): The key lessons that have been learned are the importance of comprehensive monitoring to detect and assess radiation incidents and levels of radioactivity in food and the environment and, of course, the importance of good contingency planning.

Chris Ballance: The Chernobyl explosion severely contaminated 22 per cent of the Belarus landmass and caused the evacuation of 350,000 people. Those of us who express concern about nuclear safety have today been branded by the United Kingdom Minister of State for Energy, Malcolm Wicks, as immature "environmental fundamentalists". Do you regard that comment as a mature contribution to a very serious debate?

Ross Finnie: Members are well aware of the need to be alive and alert to the dangers of nuclear explosions, but we must also remember that the disaster happened in 1986 in a facility that—I am not an expert, but I think that we all know this—had severe problems in its design and operation. It is important to remember that in Scotland 10 farms, which contain about 13,600 sheep, are still actively being monitored. We cannot diminish the risks, but I will not engage in a debate that the member might more properly have with Mr Wicks.

Phil Gallie (South of Scotland) (Con): Does the minister agree that the lesson to be learned is that other countries will develop nuclear power irrespective of decisions on nuclear energy in this country and that in some nuclear facilities there will—as was the case at Chernobyl—be fewer safety regulations and lower standards of care than we have in the United Kingdom? Does the minister agree that the fact that we had a strong nuclear energy industry allowed us to diminish the effects of the horrors of Chernobyl?

Ross Finnie: I know that the member takes a keen interest in matters nuclear. From my point of view, Chernobyl demonstrated that there are enduring environmental concerns. As I said to Chris Ballance, that is a lesson that we cannot easily ignore.

Richard Lochhead (North East Scotland) (SNP): Does the minister agree that the best way of commemorating the 20th anniversary of the Chernobyl disaster would be to rule out any new nuclear power stations for Scotland? Does he agree that the best people to decide the future of energy for Scotland are the people who are elected to the Scottish Parliament in Edinburgh here in Scotland, and not Malcolm Wicks, who makes fleeting visits to his energy colony now and again?

Ross Finnie: If there is to be a memorial to mark the 20th anniversary of the Chernobyl disaster, one might more properly spend a little more time being concerned about the people who suffered seriously from the impact of the disaster, rather than making—if I may say so—a slightly cheap political point about how we commemorate such a serious disaster. If there is an enduring lesson to be learned, it is that irrespective of the form of power to be generated, it behoves us all to ensure that we apply the highest standards of engineering and health and safety, whatever we do.

Defence Aviation Repair Agency (Privatisation)

4. Mr Andrew Arbuckle (Mid Scotland and Fife) (LD): To ask the Scottish Executive how its Enterprise, Transport and Lifelong Learning Department will support the staff and management of the Defence Aviation Repair Agency following its privatisation. (S2O-9039)

The Deputy Minister for Enterprise and Lifelong Learning (Allan Wilson): The Ministry of Defence has advised the Scottish Executive that no decision to sell DARA Almondbank has been taken. Furthermore, the MOD has no plans for redundancies at DARA Almondbank.

Mr Arbuckle: I think the minister will agree that a degree of uncertainty has been generated and that uncertainty is damaging and contagious, especially given that the DARA workforce is highly skilled. I support the member for Perth in asking the minister to maintain regular contact with the MOD and to keep the management and workforce at DARA informed of developments.

Allan Wilson: I certainly assure the member on his latter point, as I did the member in whose constituency Almondbank is.

I will try to dispel some of the uncertainty around the decision. Market testing is taking place to ascertain whether a sale might deliver improved

effectiveness and value for money for the armed forces and, of course, a better long-term future for the workforce. If the process does not identify that a sale would have those results, DARA Almondbank will be retained in MOD ownership.

Mr John Swinney (North Tayside) (SNP): I was delighted to hear the minister describe DARA Almondbank as a “world-class facility” in his answer to the member for Perth, because many of my constituents are employed there. Will the minister tell Parliament the steps that the Enterprise, Transport and Lifelong Learning Department has taken to support the work that is undertaken at DARA, to build on the skills level there and to ensure that the facility continues to support world-class skills and to bring benefits in employment not just to Perthshire but to the wider Scottish economy?

Allan Wilson: The member will accept that the facility is ultimately a matter for the MOD, which wants to achieve a solution that offers best value for money while preserving operational effectiveness. However, the Scottish Executive, the member for Perth and Mr Swinney have a role in influencing MOD decisions in that context.

I said that we have corresponded with the MOD. It is not usual to disclose the content of ministerial correspondence, but I assure the member that we will closely monitor the situation at Almondbank. The MOD has been asked to keep us closely involved as the market-testing exercise takes place during the next 12 to 18 months. I assure the member that we greatly value the contribution that the facility at Almondbank makes to our wider defence interests in Scotland.

Scottish Driving Assessment Centre

5. Mr Stewart Maxwell (West of Scotland) (SNP): To ask the Scottish Executive what its position is with regard to the Scottish driving assessment centre. (S2O-9051)

The Deputy Minister for Finance, Public Service Reform and Parliamentary Business (George Lyon): The Scottish Executive supports the Scottish driving assessment centre by providing an annual contribution to the running costs of the service. The Scottish Executive is also supporting the Scottish driving assessment centre in developing by the end of March 2006 a business case for potential expansion of the service in the west of Scotland.

Mr Maxwell: I welcome the minister's helpful reply. He might be aware that the Scottish driving assessment service was established in 1983 and was entirely funded by the national health service until 2001. Members of the service have made me aware that the Scottish Executive Enterprise, Transport and Lifelong Learning Department has

been helpful to the service in its campaign for a second centre in the west of Scotland, which has been going on for some time, as the minister knows.

However, funding is the crucial factor. Currently 30 per cent of referrals to the centre in Edinburgh come from the Lothians and only 9 per cent come from the west of Scotland, which represents a clear imbalance, given the population density of the west of Scotland. Can the minister suggest a way forward for funding for the service? There are difficulties in obtaining money from the Health Department. Through his good offices and the good offices of the Enterprise, Transport and Lifelong Learning Department and of the Minister for Transport and Telecommunications, will pressure be placed on the Health Department to assist with funding to ensure that a centre is established in the west of Scotland?

George Lyon: Stewart Maxwell is correct to say that the Enterprise, Transport and Lifelong Learning Department has supported the project, to which it has allocated moneys for the financial years 2005-06, 2006-07 and 2007-08. As he said, delays have arisen from difficulties in securing an appropriate site through the NHS. We responded to those difficulties by providing £35,000 from the allocated moneys to pay for a project manager, who has met Executive transport and health officials to try to progress the project, which is important. I understand that, following discussions, a business plan will be presented to the Executive by the end of next month. I assure Mr Maxwell that my transport and health colleagues are working together to produce a solution that will help to progress this important project for the west of Scotland.

Pubwatch (Lanarkshire)

6. Michael McMahon (Hamilton North and Bellshill) (Lab): To ask the Scottish Executive whether it has any concerns regarding the operation of the pubwatch schemes that are run by licensees in Lanarkshire. (S2O-9078)

The Deputy Minister for Finance, Public Service Reform and Parliamentary Business (George Lyon): I emphasise that the Executive has no locus in pubwatch schemes. They are voluntary schemes and locally driven collaborations between licensees. Their purpose is to promote a safer environment in establishments and thereby to reduce the risk of damage to property and assaults on staff.

Michael McMahon: Is the minister aware of cases, such as those in my constituency of individuals—mostly women—who have been banned for life from all the pubs in a pubwatch area for actions that did not warrant criminal prosecution? Some people have even been

served with 10-year bans for the heinous crime of signing people into a social club against club rules. Does he agree that such punishments are disproportionate to the wrongdoing? Does he agree that although it is important that licensees should run their establishments in an orderly manner, they cannot be allowed to combine into organised kangaroo courts in which they act as judge, jury and executioner against people who might have committed no criminal offence? Will he undertake to examine whether pubwatch schemes act in accordance with the European convention on human rights, especially as they do not offer the accused even a hearing or an appeal against the punishments that are imposed?

George Lyon: I am aware of the member's concern. My department checked whether police in North Lanarkshire and South Lanarkshire had received complaints about the issue, but they confirmed that no complaints had been received in the past year. I understand that recent local press coverage concerned two women who had been barred but not informed; they were not informed because they were from outside the area and could not be readily identified.

I would certainly be interested in looking into Mr McMahon's concerns, but I point out that if a member of the public believes that a pubwatch group has treated them unfairly, it is for them to obtain legal advice on the action that they could take. Ministers have no powers to intervene in such matters.

Care and Nursing Homes (Bed Places)

7. Frances Curran (West of Scotland) (SSP): To ask the Scottish Executive what plans it has to increase bed places in care and nursing homes, in light of the projected rise in the number of older people. (S2O-9021)

The Deputy Minister for Health and Community Care (Lewis Macdonald): Detailed planning of such matters is for the local authorities in the first instance. However, I expect a report in the next few weeks from the range and capacity review group, which we set up to consider the issues. The proposition that the best way to deal with growing numbers of older people is simply to place more older people in care homes is not one that I expect the group to support.

Frances Curran: Does the minister accept that the fact that provision is in the hands of local authorities is one of the problems, given that local authorities are racing to close the homes that they fund and run? Is he the least bit concerned by the lengths to which some authorities will go? On Monday, West Dunbartonshire Council is to board up an elderly care home that has two residents in order to close 12 beds. It will disconnect the cooker and other appliances, put in security

guards and withdraw all the staff. Is he concerned about such behaviour when we need the extra beds?

Lewis Macdonald: I would be concerned if such matters were dealt with in a way that was as alarming as Frances Curran's question implies. The reason why we look to local authorities to make such provision is that they are best placed to know the position in their areas and to plan accordingly. In addition, we do not accept that care homes offer the only way or the best way of supporting older people. We believe that the right direction of policy is to maintain the care home sector while fulfilling as far as possible the wish that older people have made clear to remain in their own homes for as long as possible.

First Minister's Question Time

12:00

Prime Minister (Meetings)

1. Nicola Sturgeon (Glasgow) (SNP): To ask the First Minister when he will next meet the Prime Minister and what issues they will discuss. (S2F-2121)

The First Minister (Mr Jack McConnell): First, I congratulate Andy Murray on being, last weekend, the first Scot to win an Association of Tennis Professionals tournament in the United States. [*Applause.*] When I meet the Prime Minister tomorrow, I might point out to him that the first Brit to win Wimbledon for a long time might be a Scot.

Nicola Sturgeon: We all wish Andy Murray the very best at Wimbledon later this year.

I remind the First Minister that the main reason that the Executive gave yesterday for not ordering a public inquiry into the Shirley McKie case was that a public inquiry would impinge on the Lord Advocate's decision-making process and would somehow undermine his independence. Why was that not a concern with respect to the Chhokar inquiry? When the Lord Advocate set up that inquiry in November 2000, he said:

"There has ... been criticism of the Crown's decision making in this case. It is because of that ... that I have commissioned the ... independent inquiries".—[*Official Report*, 29 November 2000; Vol 9, c 411.]

The First Minister: We carefully considered the comparisons between the two cases in responding to the calls that were made two weeks ago for a public inquiry, and we are clear that the cases are entirely different. We must be clear—as the First Minister, I certainly want to be clear—that I would seriously consider the case for a further inquiry if we did not have a transparent system in which the Minister for Justice commissioned reports to deal with concerns about the fingerprint service back in 2000, published those reports and accepted all the recommendations; if there had not been an acquittal in the Shirley McKie case and there were public concerns about another verdict; if there was no settlement—as we now hope that there is—in the McKie family's current action and the Executive was in some way acting improperly in that context; and if there had not been a series of actions over the past six years to implement every recommendation in the original independent reports and inquiries by Her Majesty's inspectorate of constabulary for Scotland and the Association of Chief Police Officers in Scotland. I would seriously consider the case for a further inquiry if all those things had not happened, or even if one

of them had not happened. However, the reality is that all of them have happened and they can give us confidence in our justice system. The Scottish National Party should accept that.

Nicola Sturgeon: We will undoubtedly return to some of the points that the First Minister has made.

The First Minister is right in one respect. There is a difference between the Shirley McKie case and the Chhokar case. I will tell him what that difference is.

Is the First Minister aware that the Chhokar inquiry specifically examined Crown Office decisions, yet there was no concern that doing so would undermine the independence of the Lord Advocate? In the Shirley McKie case, there is not even a suggestion that the Lord Advocate's decisions should be the primary focus of an inquiry, but an inquiry was ruled out yesterday because, according to ministers, it would be "dangerous" to go down that road. Is not the Executive using the Lord Advocate's independence—we all agree that he should be independent—as an excuse not to have a public inquiry in this case? In the light of the Chhokar precedent, will the First Minister now lay that argument firmly to rest and make it clear that a public inquiry would in absolutely no way jeopardise the Lord Advocate's independence?

The First Minister: Yesterday, the Scottish nationalists called for what they described as consistency in prosecution decisions. There was the ludicrous suggestion that the Lord Advocate should not consider the evidence in every case, but that he should simply make a general judgment that a number of cases should be prosecuted because they are in some way connected. The one thing that has been missing in the debate over the past fortnight has been consistency by those people, such as Miss Sturgeon, who have called for a public inquiry. Different reasons have been given almost every day for having a public inquiry. When one reason is shown to be flawed, another reason pops up. That is not a responsible way in which to conduct a debate about our justice system, the fingerprint service or the individuals who are involved in the case.

There are many reasons—some of which I have just given—not to have a public inquiry, another inquiry or another investigation into the case. Inquiries and investigations have taken place, their results have been published and all their recommendations have been implemented.

It would be entirely wrong for politicians—whether from the SNP or from anywhere else—to question the judgment of the Lord Advocate in individual prosecution cases. The SNP cannot

have it both ways. It cannot describe the Lord Advocate—as Alex Neil did yesterday—as a political tool of the Executive and say today that its position has changed again. That would be entirely wrong. The Executive has done much to reform, open up and make transparent the justice system, and we will continue to do that, but we will do it by defending its core principles, which have made the Scottish legal system the pride of Scots the world over.

Nicola Sturgeon: Does not the First Minister appreciate the point? The Lord Advocate opened an inquiry to review his own decision-making process in the Chhokar case. I am asking the First Minister for consistency in his policy decisions.

I put to the First Minister the questions that could and should be answered by a public inquiry. Was a mistake made in the identification of Shirley McKie's fingerprint? The First Minister says yes; those who made the identification say no. If there was a mistake, how did it come about? We do not know the answer to that question. Is there any substance to the allegation in the Mackay report that, instead of owning up to the mistake straight away, a systematic attempt was made to conceal it? Those are fundamental questions. If the First Minister can answer them here and now, so be it; if he cannot, will he accept the clear and overwhelming need for a public inquiry that can answer those questions?

The First Minister: On the final point that Ms Sturgeon makes, the Lord Advocate answered well yesterday, making the case against politicians interfering in prosecution decisions. For Ms Sturgeon and the nationalists to persist with an argument that the collation of evidence and advice by the Lord Advocate and Crown counsel in making decisions about prosecutions should be open to scrutiny by politicians is a fundamental mistake. It shows that the Scottish nationalists are unfit to govern Scotland—ever.

The Deputy First Minister and Minister for Justice—as he then was—Jim Wallace made it clear in the chamber nearly six years ago that we accepted the court judgment in the case of Shirley McKie. Shirley McKie was not found guilty; she was acquitted. The Executive accepted that judgment absolutely; investigated and inquired into the future of the fingerprint service; and implemented and published every one of the recommendations of those independent inquiries and investigations. Yesterday and today, not once has the SNP questioned whether those recommendations have been implemented or whether they were the right recommendations. Today, our job is to move on, building on the new confidence in the fingerprint service and ensuring that everyone who is involved in the case can move on with us.

Nicola Sturgeon: I make it clear to the First Minister—he obviously has difficulty in understanding this—that I do not want prosecution decisions to be revisited; I want answers to the questions in the Shirley McKie case that remain unanswered. I remind the First Minister that the key public concern that led to the Chhokar inquiry was the fact that ultimately no-one was convicted of Mr Chhokar's murder. As we have been reminded today in the newspapers, no-one has yet been convicted of the tragic murder of Marion Ross. For that reason, as well as for all the other reasons that I have given him today, will the First Minister, at long last, do the right thing and order a public inquiry into the matter?

The First Minister: I remind Ms Sturgeon that, following her references today to the Mackay report and her references yesterday to both that report and the Executive becoming party to a massive cover-up of the truth—an outrageous allegation that is of massive significance for future confidence in our justice system, for the independent role of the Lord Advocate and for people's confidence in the current state of the fingerprint service after all the recommendations have been implemented—she cannot say that, in some way, she has changed her mind and does not believe any more that politicians do not want to interfere in the decisions of the Lord Advocate. That is simply an inconsistent and untenable position for the nationalist party to hold if it claims to be a party of Government.

I say again that if there had not been inquiries and investigations; if Her Majesty's inspectorate of constabulary and the chief police officers of Scotland had not had their reports published by the then Minister for Justice and every single one of their recommendations implemented; if Ms McKie had not been acquitted; and if she and her lawyers had not been able to reach a settlement with the Executive, there may well be a case for a further inquiry. However, to continue with this political attempt to undermine and interfere with the legal system of Scotland does the nationalists no good whatsoever. It does not allow the fingerprint service, the family and everybody else involved to move on and have confidence in the future.

Cabinet (Meetings)

2. Miss Annabel Goldie (West of Scotland) (Con): To ask the First Minister what issues will be discussed at the next meeting of the Scottish Executive's Cabinet. (S2F-2122)

The First Minister (Mr Jack McConnell): It probably does not take a magic wand to work out that one of the issues that might be discussed at next week's Cabinet meeting will be some recommendations on the Forth road bridge.

Miss Goldie: That promises to be an extremely interesting discussion; I am sure that many of us would like to be flies on the wall.

I want to bring us to more immediate matters. No doubt the First Minister has seen the latest figures on waiting times, published this morning. They show that 10 per cent of out-patients are not receiving appointments within 26 weeks, and that 10 per cent of in-patients are not being admitted within six months. Those are breaches of specific pledges that were set out in the partnership agreement. For the First Minister's benefit, the pledges are on page 21, paragraphs 3 and 5, and were to be delivered by the end of 2005. Why have those pledges to all patients been broken?

The First Minister: Boy, the Tories hate it when the health service is doing well—they absolutely hate it.

The Scottish health service this morning reports, independently, on the guarantee that we gave for in-patients and out-patients. It was a guarantee that the Tories did not believe and that Ms Sturgeon said I would probably have to resign over—and I just remind the chamber that this time last year 55,000 out-patients in Scotland were waiting longer than six months for treatment, and that the figures were high and needed serious attention. The guarantee was that in-patients and out-patients would receive treatment and appointments within six months. The report today says that, apart from four administrative cases that were all dealt with immediately after they were identified in the early part of January, the guarantee was met for Scots the length and breadth of our country.

There will be all sorts of attempts today by the Tories and the nationalists to try to portray that there is some sort of hidden figure or some sort of secret list somewhere. The reality is, for those who do not know about the guarantee, that the list is published every single quarter. Nine out of every ten people on the list are people who have chosen to delay their appointments, and the others are on it for medical reasons.

The reality is that the guarantee has been met and that, at six months, it is one third of what the Tories guaranteed back in 1996-97. That shows why a change of Government, and why the work of this Executive and this Parliament, is making a difference to Scotland, and why we should never go back to having the Tories in power.

Miss Goldie: The First Minister can bluster all he likes but the fact remains that, on the figures published this morning, the Executive has failed to meet two specific commitments on health that were in its partnership agreement.

I want to debate how we can improve our health service. In an article last week in *Scotland on*

Sunday, the First Minister's colleague, Mr Jim Murphy, argued for greater patient choice to be introduced in Scotland as the key to progressive reform. What does the First Minister say to his colleague, and where is the Executive's much heralded reform agenda in Scotland? For instance, where are the independent treatment centres and the national health service tariff system that we were promised last year by the Minister for Health and Community Care, Mr Andy Kerr?

The First Minister: All those changes are progressing, and that is precisely why we have met the guarantee, precisely why we have implemented the target that we set out and precisely why the agreement has in fact been implemented.

No attempt by Miss Goldie to move on the agenda or to talk about other things can detract from the fact that we have delivered on that commitment in Scotland through the reform that we have implemented, through the investment that has been secured, through the political and administrative leadership that has been given inside and outside the health service and, crucially, through the tireless work of the members of staff of that service. I think that that is worth while and is something that even the Conservatives should be able to praise. I challenge Miss Goldie to stand up and say, "Well done," to the doctors, the nurses, the administrators and all the other professional staff in our health service who have delivered on that commitment and made life better for Scottish patients.

The Presiding Officer (Mr George Reid): Last question, Miss Goldie.

Miss Goldie: The First Minister refuses to admit that when targets are not met—two targets have not been met—and the national health service fails to deliver, it is the poorest people who get the roughest end of the stick.

Research by the former number 10 adviser, Julian Le Grand, and the Department of Health in England has shown that in an NHS without choice—which is not what Mr Murphy advocates—it is the least well-off who are the most disadvantaged. They use health services less than the better-off, get fewer hip replacements, receive fewer consultations and are given less time with general practitioners. I know that in Scotland some work has been done on health inequalities, but is it not about time that the Executive commissioned a thorough investigation to determine the extent of the problem, not to satisfy Mr Murphy, but because our duty is to people who are in the greatest need?

The First Minister: It is a bit rich for the party that has opposed our main measures on health improvement to start talking about health inequalities in Scotland today. It is particularly rich for them to do so, given that even Mr Cameron has now ditched the patient passport, saying that it would be a wrong move that would disadvantage people who used the health service and that it would be wrong for the Tories in England and Wales to support money being taken out of the health service to support the treatment of people who can already afford private provision. The Scottish Tories are the only rump of the party anywhere in the United Kingdom that still supports that policy and I hope that they will see sense, agree with their party leader and make the necessary change at their conference this year.

The Presiding Officer: I will take one supplementary of national importance.

Mr John Swinney (North Tayside) (SNP): In December, the First Minister told me during First Minister's question time that Scottish Water's investment plans were on target. Now that the chairman of Scottish Water has resigned because of a lack of ministerial confidence in the organisation's investment plans, will the First Minister tell me what deficiencies ministers have identified, when they were identified and when they will be remedied? What reassurance is there for the communities in my constituency and throughout the country in which the development constraints of Scottish Water are a significant impediment to economic growth in Scotland?

The First Minister: I thank Mr Swinney for his question. He has been right to be consistent in raising the issue of development constraints. We were concerned about how Scottish Water's previous strategic plan dealt with the matter and about the relationship between that plan and the information that local authorities provided. We were determined to correct that in Scottish Water's current strategic plan as it looks forward and that is precisely why we have insisted not only that it should agree to stay within the financial constraints that the regulator has laid out, but that it should have a plan for implementing its strategic objectives within those financial constraints that has the confidence of ministers, the regulators and the other bodies that must have confidence in its plans. That is the objective that we have set. We will ensure that a new chair of the Scottish Water board is appointed quickly, but none of that should detract from our absolute determination to have the right plan implemented and to secure throughout Scotland improvements both in water quality and in the quantity of provision, so that the development constraints that have affected a number of areas will not apply in future.

Chancellor of the Exchequer (Meetings)

3. Colin Fox (Lothians) (SSP): To ask the First Minister when he will next meet the Chancellor of the Exchequer. (S2F-2131)

The First Minister (Mr Jack McConnell): Unfortunately, I will not see the chancellor this weekend, but I hope to see him again soon.

Colin Fox: When the First Minister eventually meets Gordon Brown, perhaps he could tell him how little the 2 per cent pay award to Scotland's health workers will do to release them from the misery of low pay. Is the First Minister prepared to offer health service staff more than the warm words that he has just used? How much does he think that we should offer our dedicated and hard-working national health service staff to reflect our recognition of the superb job that they do?

The First Minister: Through the significant pay awards that have been made in the health service in recent years, we have recognised the importance of pay. We also recognise the importance of providing career development, training and support for staff and of ensuring that the system is flexible enough to mean that people are not expected to have a standard working week or a standard working year, but have opportunities to be flexible. That is why agenda for change has been important for individual members of staff and for the service. That flexibility, together with career development, new skills and ways of working in the health service and the financing of agenda for change through pay deals, has contributed to the remarkable reduction in waiting times that we see published today. That is one of the reasons why I congratulate all health service staff on their achievements.

Colin Fox: I am grateful for the answer, but perhaps the First Minister could return to the question. Is he aware of the immense anger among NHS staff about the below-inflation pay rise? One health union has denounced it, saying:

"The 2 per cent settlement is simply not good enough. It fails to reflect our skill and dedication in delivering high quality patient care. 1 in 3 staff are now considering refusing to work unpaid overtime. They feel undervalued and ignored by this government."

Is it not the case that this—in real terms—pay cut will set back efforts to entice workers into a service that is already short of staff? Does the First Minister agree that the settlement does nothing whatever to help NHS staff on to the housing ladder in cities such as Edinburgh?

The First Minister: If we have independent pay review bodies, it is important that we take account of what they say and that we implement, as far as we can, their recommendations. It is also important that we do that within the context of wider change in the health service and with the

recognition that there should be incentives for new ways of working that put patients first.

I want us to work very closely in partnership with the trade unions in the health service and elsewhere, but we do not have to accept everything that they say about every agreement. We should be perfectly capable of having honest disagreements.

Disadvantaged Communities

4. Mr Frank McAveety (Glasgow Shettleston) (Lab): To ask the First Minister how the Scottish Executive will respond to the recent report by Professor Malcolm Hill and Peter Seaman for the Joseph Rowntree Foundation on parenting and children's resilience in disadvantaged communities and their reference to street gangs. (S2F-2133)

The First Minister (Mr Jack McConnell): I have not had an opportunity to study the findings in detail, but I understand that the key issues are education and employment opportunities, drug misuse, support for parents who need it and positive and safe alternatives to getting involved in offending or antisocial behaviour for our young people. The issues are at the heart of our agenda. That is why we have increased resources for youth activities, changed and improved Scottish schools, delivered new powers to disperse groups or gangs and, this week, announced further action on education and employment for disengaged youngsters.

Mr McAveety: Does the First Minister agree that recognising the research finding that many young people gather together in groups for safety should not distract us from the reality that a minority of gang members are intent on disrupting communities and neighbourhoods and making them intolerable for the decent majority?

Does the First Minister welcome the operation tag initiative of Strathclyde police's G division in the south side of Glasgow, which covers parts of my constituency? In that initiative, the division is targeting the individuals who cause most disruption to the community.

The First Minister: I strongly support the example that G division has set. I hope that others will follow its example in the months ahead. The presence of gangs and large groups of youngsters is intimidating for people of all ages. It is regularly highlighted as being intimidating for pensioners and vulnerable people in the community. It is also intimidating for other young people. It drives them into similar groups and gangs and often means that they are scared to go out at night, thereby preventing them from using facilities and taking up opportunities that they would otherwise enjoy.

It is important that the police tackle gang and group culture in the way that G division has done;

the main force of the law needs to be used against that culture. It is also important that the new powers that we put in place, despite the opposition of some in the Parliament, are used to secure peace and quiet in our communities. It is even more important for us to give young people a positive alternative, both in their schools, where we should be motivating them with new choices and opportunities, and outside school, where we need to give them the facilities, opportunities and support to make something of their lives.

Avian Flu

5. Lord James Douglas-Hamilton (Lothians)

(Con): To ask the First Minister whether, in the context of avian flu moving towards Scottish shores, the Scottish Executive will give priority to producing a vaccine or antiviral agent to prevent the spread of illness within Scotland. (S2F-2123)

The First Minister (Mr Jack McConnell): Avian flu rarely affects humans, but it represents a significant global challenge. The latest assessment identified the risk of introduction of the disease to Scotland as low. However, ministers and departments are working closely with the European Union and the United Kingdom Government. In the event that the disease should occur, we will be ready to respond quickly and effectively.

Lord James Douglas-Hamilton: Does the First Minister accept that, if Scotland is, in time, confronted with a pandemic, it would be necessary, far-sighted and prudent to have antiviral drugs available for our entire population and not just for 25 per cent, as planned?

The First Minister: In that plan, we are working to World Health Organisation guidelines. It is important that we have done that and that precautions have been taken. However, the most serious issue is that we do not and cannot know, until and unless the avian flu virus develops a human strain, exactly what medication may be appropriate to deal with it. Therefore, the ability of the science community, probably assisted by scientists in Scotland, and of the medical community to respond quickly will be absolutely fundamental. In addition to taking the appropriate precautions under the WHO guidelines, we are determined to be able to play our part in any international response to ensure that we identify a strain and tackle it when it occurs.

Margo MacDonald (Lothians) (Ind): Will the First Minister assure me that precautionary forward planning is taking place on two issues? The first is the shortfall of specialist isolation units as a result of the development of our health services. That issue must be considered. For example, we no longer have a sufficient number of qualified specialist nurses. I do not mean to be

light about the issue, but my second point is that, because migratory wildfowl are found across the road from the Parliament in St Margaret's loch, we are within the 1-mile radius that Her Majesty's Government recommends for quarantine should any affected bird be found. Has anyone given any thought to what we would do if we were banged up with one another in this place for heaven knows how long?

The First Minister: I can think of few things that would give me more pleasure than being here with Margo MacDonald for a considerable period of time—I am sure that that would be both entertaining and educational. I am not absolutely certain that the comments in the first part of her question were accurate, but I am happy for the Minister for Health and Community Care to respond to that in detail.

Airports (Expansion Plans)

6. Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): To ask the First Minister whether the Scottish Executive considers that expansion plans at Scotland's three biggest airports are at risk from a takeover of BAA and, if so, what representations it has made to Her Majesty's Government and the Civil Aviation Authority. (S2F-2126)

The First Minister (Mr Jack McConnell): Given the Scottish National Party's long-term campaign to sell off BAA, I was a bit surprised by Fergus Ewing's question, but I will answer it nevertheless.

Ministers have no reason to believe that the development of Scotland's three biggest airports will not continue along the lines set out in the draft masterplans for Glasgow international, Edinburgh and Aberdeen airports. I await the supplementary question with interest.

Fergus Ewing: It is not who owns the airports that counts; it is the investment in them. Surely the First Minister is aware that any bidder is likely to be interested solely or primarily in BAA's London airports. Will he therefore tell Parliament whether he has yet met with BAA or the potential main bidder, Ferrovial, and, if not, who has? Given that the Department for Transport has said that it will do nothing whatever to intervene in the process, who will articulate Scotland's voice? Will it be the Chancellor of the Exchequer or the Secretary of State for Transport, or do they take an interest in transport matters only for the duration of parliamentary by-elections in Scotland?

The First Minister: Those matters will be dealt with by the competition authorities. I have kept in touch with BAA and it has offered to keep us fully briefed in the circumstances. Its recent record on investment in Scotland, based on a commercial assessment of the worth of that investment, has

been substantial. For that reason, it has joined us in the air route development fund—a fund that the SNP described as a waste of money because more people would want to leave Scotland than come here. Despite that, more people are coming to Scotland than ever before. All sorts of routes are being established between Scotland and Europe, Dubai, America and elsewhere.

The substantive point, however, is the position of the SNP on the future of BAA. Today, Fergus Ewing asks a question in support of BAA and its continued ownership of Scottish airports, but as recently as 2003, the SNP's then shadow transport minister, Kenny MacAskill, said that it is

"time for Aberdeen to have a new owner."

As recently as 2002, the SNP said that BAA does very little to support Scotland's airports. It said that Aberdeen is "stagnating", Edinburgh airport is "under-performing" and Glasgow is "going backwards". It was only on 6 January 2003 that Brian Adam, who is sitting next to Fergus Ewing and who should be defending his airport and the investment in it, said:

"The time for excuses has past and the time for action has arrived. ... The BAA monopoly is killing the airport's development and it's time for it to end."

If there is a company anywhere in the world that is looking to buy up BAA, the one organisation in the world that has been encouraging it has been the Scottish National Party. For goodness' sake, the SNP should be consistent for once. It should stand by its policies and defend them in the chamber. That would allow us to have a decent debate.

12:30

Meeting suspended until 14:15.

14:15

On resuming—

Question Time

SCOTTISH EXECUTIVE

Education and Young People, Tourism, Culture and Sport

Recreational Opportunities

1. Mr David Davidson (North East Scotland) (Con): To ask the Scottish Executive what action it will take to ensure access for young people to informal recreational opportunities. (S2O-9056)

The Deputy Minister for Education and Young People (Robert Brown): We acknowledge the importance of access to informal recreational opportunities for young people and already support that objective through the child care strategy, the active schools programme, our approach to the early years curriculum and planning policy guidance. We will also carry out a consultation on youth work over the coming months.

Mr Davidson: I thank the minister for his response. Unfortunately, it does not answer the problems that have been raised with me by teenagers in the city of Aberdeen, who are being denied access to certain facilities, find formal facilities very expensive and cannot get to places because of a lack of community transport. They are looking for self-managed premises that they can use when the weather is bad, where they can be safe and secure and where they do not disturb anyone else. What will the minister do about that?

Robert Brown: The issue that Mr Davidson has raised is a challenge in many parts of Scotland. However, it is essentially a matter for local councils to address with the quite substantial funding that is available to them.

In the first year of the active schools programme, in which £24 million has been invested, 600 active schools co-ordinators have been created and 190,000 activity sessions have been run. Moreover, draft Scottish planning policy guideline 11, which will be issued for a three-month consultation this spring, will set out national minimum standards for open-space provision in certain types of new development. The Executive is doing what it can to support the framework for developing informal recreation.

We regard play as extremely important. Indeed, as I said in response to Ken Macintosh a couple of weeks ago, it is central to a whole series of activities that the Executive wants to carry out.

Gaelic-medium Education

2. Mr Alasdair Morrison (Western Isles) (Lab):

To ask the Scottish Executive whether it will provide an update on the provision of Gaelic-medium education. (S2O-9082)

The Minister for Education and Young People (Peter Peacock): As Gaelic-medium education is vital to the future of Gaelic in Scotland, we offer substantial support to local authorities, which are the principal providers of services. That support includes an increase in the Gaelic grant; an action plan for teacher recruitment; improved resources for schools; the expansion of the Gaelic curriculum at secondary school; support for a Glasgow Gaelic school; and the national Gaelic education strategy, which will be developed by Bòrd na Gàidhlig as part of a national Gaelic language plan.

Mr Morrison: I thank the minister for that detailed response. I am absolutely certain that the minister will be delighted to learn that 22 potential students have registered for the Strathclyde University postgraduate diploma in education in primary teaching with Gaelic that is currently being delivered by Lews Castle College in Stornoway and that a further 11 have registered at Inverness College. The delivery of that PGDE course by Lews Castle College is arguably one of the most exciting and significant developments in Gaelic teacher training in Scotland. Will the minister, and his colleagues in the Enterprise and Lifelong Learning Department, use their good offices to ensure that the diploma is available in all university of the Highlands and Islands centres?

Peter Peacock: I am happy to support Alasdair Morrison's comments, although I must say that I am not sure whether the campus in Shetland will offer that course. However, I know that it would be entirely appropriate, for example, for Sabhal Mòr Ostaig in Skye to do so to ensure that people can access such courses locally. Such an approach will help to contribute to the number of extra teachers we are looking for. As Mr Morrison was right to point out, the fact that 22 students at Lews Castle College and 11 students at Inverness are already participating in these courses is encouraging. The more provision that we can create, the more opportunity we will have to bring in more people and to strengthen Gaelic-medium education further.

Rob Gibson (Highlands and Islands) (SNP):

As far as extending Gaelic-medium education is concerned, I would like to hear a bit more from the minister about materials and buildings. In various areas, there might be conflicts of interest over the buildings that might be used. Moreover, as we have discussed before, more material will have to be made available. I am interested to hear how that matter is progressing.

Peter Peacock: I am not entirely clear about the point that Rob Gibson is making about buildings. Perhaps we can pursue that away from the chamber, as I do not want to mislead him.

We are seeking to do a range of things to improve access to Gaelic materials because the marketplace is not big enough to sustain commercial materials. We are making a lot of money available through Stòrlann Nàiseanta na Gàidhlig—which makes available Gaelic publications not only to schools, but more widely—and a group is considering the Gaelic secondary curriculum. New materials are being commissioned, and how existing materials can be shared electronically to greater effect is being considered. More recently, there have been encouraging offers from the BBC to help with the creation of Gaelic learning materials in the future, which will provide a large resource that can be accessed. Good progress is being made, but there is still a long way to go to make further progress in this important area.

Public-private Partnerships (Schools)

3. Mike Rumbles (West Aberdeenshire and Kincardine) (LD): To ask the Scottish Executive when it will invite bids for the next round of funding for its PPP schools programme. (S2O-9034)

The Deputy Minister for Education and Young People (Robert Brown): Over the long term, the Scottish Executive is supporting 29 schools public-private partnership projects, with a capital value of around £2.5 billion. Further financial support for school building projects is a matter for the next spending review.

Mike Rumbles: The minister will be aware of concerns about the future of Carronhill school, which is a special school in Stonehaven in my constituency, and of Aberdeenshire Council's decision to rebuild it and other schools if another round of PPP projects is forthcoming. I thank the minister for informing me about when there will be further financial support, but will he confirm that applications to build or refurbish special schools—such as Carronhill school—under the programme will be looked on as favourably as applications that relate to mainstream schools?

Robert Brown: The Executive believes that it is important that special schools and facilities have a prominent position in the rebuilding programme. However, decisions on school estate priorities are a matter for local authorities, which have a variety of different resources at their disposal, including money that will be made available under the next PPP round. Decisions on individual school building programmes are entirely a matter for local authorities.

Mike Rumbles might be aware that Aberdeenshire Council decided at a meeting in December last year that St Andrew's school and Carronhill would be considered under a wider strategy that the council is developing on support for learners.

Karen Whitefield (Airdrie and Shotts) (Lab): I welcome the first round of PPP funding, but is Robert Brown aware of the continuing poor condition of some North Lanarkshire schools? Has Peter Peacock talked to him about his recent visit to Alexandra primary school? Is he aware of the cramped conditions there? Will he take action to ensure that the pupils of that school and Rochsolloch primary school in Airdrie are taught in schools that are fit for purpose?

Robert Brown: I am glad to say that Peter Peacock has mentioned to me his impressions of his recent visit to Alexandra primary school. The Executive is aware of the appalling state of some school premises and of the historic reasons for that. That is why the Executive is carrying out the biggest school building programme in Scotland's history. As I mentioned, our total investment in school PPPs is some £2.5 billion. We have significantly increased the schools fund, which will provide £96.7 million to authorities—the money will rise to more than £100 million next year. Resources are also available to local authorities under the prudential framework. However, individual decisions on priorities in local areas are a matter for local councils' spending bids.

Elaine Smith (Coatbridge and Chryston) (Lab): I do not believe that a PPP approach represents good value for money, but given that the Scottish Executive has already provided funding for such projects, is there any action that the minister can take to stop PPP contractors building on beautiful Victorian public parks, such as Dunbeth park in Coatbridge?

Robert Brown: Again, I must respond that such matters are largely for local authorities, which are democratically accountable for their decisions to their electors through the electoral system. However, there is Scottish Executive guidance on how PPP projects are approached and consulted on, and my colleague Malcolm Chisholm's department has planning guidelines relating to those matters that give guidance to local authorities on how they should retain as much open space and as many free play facilities as possible.

Ambitious, Excellent Schools

4. Iain Smith (North East Fife) (LD): To ask the Scottish Executive what progress has been made on the implementation of its "Ambitious, Excellent Schools" agenda. (S2O-9036)

Peter Peacock: We have completed 39 of the 69 commitments in "Ambitious, Excellent Schools" and we are well on the way to achieving the rest.

Iain Smith: I welcome the progress that has been made on this. I am sure that the minister will agree that one of the aims of the agenda is to provide greater choice and opportunity for pupils. The report of Her Majesty's Inspectorate of Education entitled "Improving Scottish education", which was published this week, shows that Scotland is providing a high quality of education for most of Scotland's children. It also highlights several areas of concern. In particular, the overall level of attainment in secondary 1 to S4 is unsatisfactory. In terms of the "Ambitious, Excellent Schools" agenda, what further measures does the Executive intend to take to improve the transition between primary and secondary education and to improve the overall level of attainment in the lower years of secondary schools?

Peter Peacock: Iain Smith makes a wide range of points. He is right to draw attention to the fact that the HMIE report that was published this week—which is the most comprehensive report that we have seen of our entire education system—is positive about the ability of the Scottish education system to deliver. It reports clearly the success and strength of the Scottish education system. However, he is also right to say that the report also points out some of the concerns that we ourselves have pointed out. The report confirms the areas that we have identified as requiring attention, and that is where the "Ambitious, Excellent Schools" agenda comes from.

Part of that is about widening choice and opportunity for young people. We are considering, for example, new vocational courses and skills-for-work courses in our schools. We have changed the age-and-stage regulations to give more freedom of choice to teachers and pupils about what to study, when to study it, what exams to sit and when to sit them. A range of changes are taking place, but we need to do more, as Iain Smith has said, to plan transitions from primary to secondary education. That is one of the reasons why we have changed the rules to allow primary teachers to move into secondary education. That is also why we are in the midst of a major curriculum review that is looking particularly at S1 to S3, in which years we know that too many young people are disengaging. We want to find the excitement and pace in learning that they require to remain engaged.

We are making progress, but we will redouble our efforts in the light of the HMIE report, which confirms that our direction of travel is the right one.

Mary Scanlon (Highlands and Islands) (Con):

Highland Council states that it has been given one third of the funding that is needed to implement the McCrone settlement and that, if it cannot cut back primary education, it will be faced with cutting back advanced higher classes. Pupils in one Inverness secondary school are already being told that the only advanced highers that will be on offer next year will be in Gaelic and maths. Can the minister confirm what statutory obligations councils and schools have to offer the advanced higher and how these cuts will affect pupils from the Highland region in their career and university choices in the future?

Peter Peacock: I will address the point about statutory obligations first. As Scottish education is structured, in relation to the curriculum, there is no statutory requirement to provide specific courses. Curriculum guidance is given, but it is very much down to local authorities and schools to tailor their curricula to suit their particular group of young people.

It is regrettable that Mary Scanlon uses the word "cuts" in this regard. We are actually putting more money than ever into teaching. Huge additional resources are going into education. We exempted teacher costs from the efficiency targets that have been given to local authorities, and an extra £60 million has just been allocated to bring extra teachers into the system, not to reduce their number. In the Highlands, we are allocating more than £2.6 million over the coming two years to do that. In addition, there will be more than 100 probationer teachers in Highland this year, and there will be more next year.

I have here a letter from the director of education of Highland Council. I do not know whether Mary Scanlon has been able to read it yet. I will quote from it, as it clarifies the position in the Highland Council area. The director of education says that

"there is an ability in the vast majority of schools for the 22.5 hour entitlement"—

which was part of the McCrone settlement—

"to be absorbed within the current staffing entitlements."

Most secondary schools in the Highland area are already meeting the requirements and do not need the extra resource to do so.

The letter goes on to say that pupils should still be being asked

"to list those courses that they feel are required"

and that

"final decisions on the timetable will not be made until after the Easter Holiday period."

That is some weeks away. I quote further. The letter says:

"it is very unfortunate that pupils and parents have been given the impression that there are to be significant cuts in curriculum options across all Highland schools when in fact it is clear that this is not the case."

The director of education then asks his head teachers—and I ask the chamber—to

"be very careful not to set any premature worries in the minds of pupils and parents"

about these matters. I ask Mary Scanlon to follow that advice.

Maureen Macmillan (Highlands and Islands)

(Lab): I appreciate the minister's answer to Mary Scanlon, as my worries were in the same direction. The minister may recall the conversation that we had yesterday on this subject.

Is the minister aware that the former certificate of sixth year studies, now advanced highers, have always been under pressure because of the small numbers of pupils involved? Could I ask the minister to look into how schools in the Highland area in particular, but also in other rural and even city areas, might combine and amalgamate, possibly delivering classes and lectures via their intranet services? As a former SYS teacher, I know the pressures that schools are under to deliver courses.

Peter Peacock: Maureen Macmillan happens to be a former, and very distinguished, teacher at Millburn academy, and she made a big contribution to that school's success over the years. She understands intimately the nature of the changing size of the school population and the changing interests of pupils, as well as the pressure that that puts on very small course numbers at the top end of the school.

Maureen Macmillan makes at least two other good points. In the letter from which I have just quoted, the council's director of education, culture and sport discusses the opportunities for schools in the Inverness area in particular to work collaboratively to provide more, not fewer, opportunities for young people. He also mentions the SCHOLAR programme and the interactive learning that is being provided at a distance. For many schools in the Highlands and Islands, the Borders and other areas, that provides the only way to provide some courses at the level concerned.

There is a range of ways in which schools can hope to accommodate their pupils' needs—it is about trying to widen opportunities and to accommodate pupils' needs and desires. That is why we are investing a huge amount of additional resources in extra teachers throughout the school system.

Fiona Hyslop (Lothians) (SNP): Is the minister aware that the withdrawal of advanced highers

from pupils in Inverness is a direct response to the failure to support the class-contact time reduction that was agreed nationally under the McCrone settlement? Is he aware that, in the same letter from which he has quoted, the explanation of the difficulty with class-contact time reduction is that

“the allocation of additional resources from the Scottish Executive does not allow us to pass on any additional resources to secondary schools”?

Will the minister look into the issue of the top-slicing of the nationally agreed McCrone settlement to fund reductions of provision elsewhere? Will he ensure that Highland Council and the pupils who are directly affected are not compromised by a failure on the part of the Executive to fund the McCrone settlement fully?

Peter Peacock: I am absolutely confident that we have fully funded the McCrone settlement. Highland Council is rightly pointing out that the priority for the significant amount of extra cash that we have given them lies in the primary sector, which is still to make reductions in class-contact time, whereas that has been significantly achieved in the secondary sector already in Highland schools. That is why money is not being passed on to secondary schools.

Here we have a classic piece of opportunism by the Scottish National Party. The SNP is just taking another chance to scaremonger. I will quote again from the letter of the director of education, culture and sport, and I ask Fiona Hyslop to take this seriously:

“be very careful not to set any premature worries in the minds of pupils and parents in this respect.”

Scottish Culture

5. Mr Kenny MacAskill (Lothians) (SNP): To ask the Scottish Executive whether it considers Scottish culture to be a distinct market from that of the rest of the United Kingdom. (S2O-9093)

The Minister for Tourism, Culture and Sport (Patricia Ferguson): Scottish culture is distinctive in national as well as international terms. We believe that culture is a vital ingredient in Scotland's success, both here and overseas.

Mr MacAskill: Is the minister aware of the report from the Office of Fair Trading into the proposed merger of Waterstone's and Ottakar's book stores, in which it was stated there was

“no evidence to suggest that Scotland should be looked at as a distinct geographic market”?

Is it not entirely unacceptable that Scotland's unique culture should be treated as part of the UK market? What action does the minister propose to take to ensure that the position that was taken by the OFT does not threaten us with regard to booksellers and the publishing sector in the future

and with regard to other aspects of Scotland's distinct culture?

Patricia Ferguson: If Mr MacAskill had been listening when I made my cultural policy statement in the chamber last month, he would have heard about the added emphasis that the Executive gives to both literature and publishing. I am very disappointed that he should decide to frame his question in that way.

However, Mr MacAskill will know that the OFT's report is, strictly speaking, a matter for my colleagues at Westminster. The comments that he quotes must be seen in the context of the particular enterprise that the OFT was looking into at the time. That does not mean to say that there is any contradiction with the policy of the Scottish Executive. Our policy is clear: we see our culture as a vital ingredient in our success, as I have already said.

The direct answer to Mr MacAskill's question, which was whether the Scottish Executive considers Scottish culture to be a distinct market from the rest of the United Kingdom, is that we do and we take every opportunity to ensure that our distinctive culture is given its place and is used to promote our country. We will see many examples of that in the coming year, such as on tartan day in New York next month, in which organisations as diverse as the National Galleries of Scotland, the Scottish Youth Theatre and Scottish Screen will be taking part. Our commitment to our culture should not be in question.

Finance and Public Services and Communities

Equal Pay (Local Authorities)

1. Elaine Smith (Coatbridge and Chryston) (Lab): To ask the Scottish Executive what financial support has been provided to assist local authorities to meet equal pay settlements. (S2O-9088)

The Minister for Finance and Public Service Reform (Mr Tom McCabe): The Government is providing record levels of funding to local authorities in Scotland. Of course, how they spend that money is a matter for them, but I note that the average council tax increases for 2006-07 are the lowest since devolution.

Elaine Smith: I thank the minister for his not-unexpected answer. He is of course aware—he alluded to this in his answer—of the tough financial decisions that some local authorities are having to take to meet equal pay settlements. Is he aware of the suggestion that some councils are coming down harder on council tax defaulters as a result and are increasingly using the threat of bankruptcy in cases involving arrears of as little as

£2,000, which in effect threatens people with the loss of their homes and therefore works contrary to the Executive's commendable policy on homelessness?

Mr McCabe: I think £2,000 is a considerable level of debt in anyone's eyes. I am aware of no evidence that councils, as a result of their single status or equal pay obligations, are coming down any harder on people who have failed to pay their council tax. However, I have urged Scottish councils to look at their records of collection of council tax to ensure that they maximise the income that is available to them so that they can provide the world-class services that people in Scotland need and deserve.

Mr John Swinney (North Tayside) (SNP): The minister, not surprisingly, made some robust remarks to the Finance Committee on Tuesday about the role of local authority chief executives in encouraging elected members to settle equal pay cases and implement the single status agreement in Scotland. Since that meeting, has he reflected further on the role that the Scottish Executive could play in trying to break the impasse that has existed for some time between trade unions, the local authorities as the employers, and the Convention of Scottish Local Authorities—which has prevented resolution of a major outstanding issue in financing of local authorities—and thereby do something to resolve a major problem that affects every local authority in Scotland bar one, which happens to be the one that he represents?

Mr McCabe: I thought that my comments at the Finance Committee were fairly quelled and soft. If I did anything to upset Mr Swinney, I can only apologise. He is normally fairly robust himself.

Alasdair Morgan (South of Scotland) (SNP): He was impressed.

Mr McCabe: Good. I am pleased to hear that; it is encouraging. We are going in the right direction.

I reflect constantly on these matters. We are in constant dialogue with COSLA and I will meet its representatives again in the near future, when we will of course discuss this issue and many others. I have said to councils that have made representations to us that we will do all that we can to assist when we can see examples of service redesign, when they can demonstrate that flexibilities in the workforce have been increased, and where the public who receive the services can see discernible benefits in service delivery through agreements having been reached that provide employees with the right terms and conditions.

North Lanarkshire Council and South Lanarkshire Council (Meetings)

2. Margaret Mitchell (Central Scotland) (Con): To ask the Scottish Executive when the Minister

for Finance and Public Service Reform last met the leaders of North Lanarkshire Council and South Lanarkshire Council and what issues were discussed. (S2O-9023)

The Minister for Finance and Public Service Reform (Mr Tom McCabe): I last met Jim McCabe, leader of North Lanarkshire Council, at a meeting of Convention of Scottish Local Authority leaders on 23 January, and I am due to meet both leaders to discuss public sector reform in the near future.

Margaret Mitchell: Does the minister share my concern that, as part of the public-private partnership contracts that both councils have either agreed to or proposed in respect of the redevelopment of schools, there will be, in the case of Uddingston grammar school, a substantial loss of school playing fields and, in the cases of Holy Cross high school in Hamilton and Coatbridge high school in Monklands, a loss of common good ground that was gifted for the benefit of local people?

Will the minister confirm that the permanent loss of those outdoor facilities and of that recreation ground, the acquisition of which involved the expensive exercise of employing a Queen's counsel and petitioning the Court of Session, does not represent value for money?

Mr McCabe: I categorically do not agree with that statement—the member would not expect me to. However, some of the schools that she mentioned have been in need of replacement for some considerable time. The replacement buildings will provide pupils in those areas with world-class facilities in which to learn and grow, which is exactly the kind of environment that we are trying to create in Scotland. I am proud of the councils for their efforts to ensure that that is what happens.

We are seeing a transformation in our schools estate that is beyond the imagination of people of previous generations. That is also being done in a truncated time; people in those areas are pleased and astounded by the speed of change. The replacement buildings will result in better-educated children and more rounded individuals who will serve our society well. I applaud the local authorities' efforts to try and ensure that that is what happens.

Green Space (Community Access)

3. Robin Harper (Lothians) (Green): To ask the Scottish Executive whether it will issue guidelines to all local authorities that they should undertake green-space audits with the purpose of establishing a minimum standard of community access to informal and formal green space. (S2O-9102)

The Minister for Communities (Malcolm Chisholm): National planning guidance encourages local authorities to undertake open-space audits, as they form an essential first step in preparing their open-space strategies.

The Executive is currently undertaking a review of national planning policy on open space. A consultation draft will be published in the spring.

Robin Harper: I believe that the City of Edinburgh Council is the only local authority that has so far embarked on an audit. Opportunities for our children to play are limited; indeed, they seem to be getting worse. In the United Kingdom, we now have 80 acres of golf course for every acre of children's play space.

Barnardo's and Play Scotland have called for a broad package of measures—a play strategy—the aim of which would be to provide a safe and accessible play environment for every child in Scotland. Earlier this afternoon, we heard that 600 active schools co-ordinator posts have been created. However, according to the British Medical Association, the opportunity for spontaneous play may be the only requirement that young people need in order to increase their physical activity. Given that—

The Presiding Officer (Mr George Reid): Question please.

Robin Harper: Does the minister agree that protecting green recreational space should now be a national priority?

The Deputy Minister for Communities (Johann Lamont): First, I do not agree with the comment that the member made on the number of open-space audits. The fact is that at least half the local authorities have started an open-space audit or are completing one.

At national level, through the planning advice note process and our review of national planning policy guideline 11, "Sport, Recreation and Open Space", we are very keen to understand exactly what open space means to local communities and how communities and authorities can develop standards and strategies.

I recognise the importance of informal play and formal play. I am proud of the Executive's record in investing in our communities and in understanding the need for sport and physical activity. It is important for us also to recognise the importance of maintaining open space. It is therefore to be regretted that, when the Green party had the opportunity to support our proposals to deal with some of the problems in respect of open spaces, including the fact that they are not safe to use if they are frequented by disorderly people who keep other people away, it did not. In order to keep young people safe on the streets

when they are playing, we have to deal with the people who make our streets unsafe.

The general thrust of the points that Robin Harper and others are making—that we must encourage physical activity and that, in the planning process, we have to recognise the importance of well maintained and safe open space—is, of course, at the heart of the Executive's approach.

Central Heating Programme

4. Margaret Jamieson (Kilmarnock and Loudoun) (Lab): To ask the Scottish Executive why there is a delay in the installation of central heating for older people who have been assessed as meeting the eligibility criteria under the central heating programme. (S2O-9072)

The Minister for Communities (Malcolm Chisholm): Once eligibility has been assessed, it inevitably takes time to carry out and complete the installation of a new central heating system, including the necessary post-installation checks. Moreover, demand for the programme continues to be very high, which puts strain on the managing agents' and installers' capacity.

We are committed to doing everything we can to ensure that eligible applicants have their systems installed as soon as is practicable and that waiting times are kept to a minimum.

Margaret Jamieson: Is the minister aware that the Eaga Partnership is withholding installation of central heating to my constituent Mrs Armour of Kilmarnock, who was assessed in November 2004 as being eligible, and that the reason Eaga is giving is that it is awaiting the minister's decision on the future of the scheme? Does the minister agree that Eaga does not have the right to withhold installation while the current scheme is in operation? Will he assure me that he will raise the matter urgently with Eaga?

Malcolm Chisholm: I have certainly had concerns about some of the comments that Eaga has made and my officials have already contacted it about them. I am astonished by Margaret Jamieson's example, although I obviously do not know the specifics of it. I will look into the case, if she will pass me the information. We are required to tender for a new contract this year—there is no way of avoiding that, so it will happen—but we are trying to ensure that the service is as seamless as possible during that period.

By the end of March, we will have installed 14,000 central heating systems in the private sector in this financial year, which is an all-time record and is 1,000 more systems than have ever been installed in a single year. The new contract will kick in exactly halfway through the next financial year, so we have told Eaga that it should

spend half of the money for next year in the six months during which it will certainly have the contract. Of course, Eaga will bid for the new contract, too. I understand Margaret Jamieson's concerns. I have taken some action on them and I will examine them further.

Christine Grahame (South of Scotland) (SNP): As the minister knows, the Scottish National Party is fully supportive of the principle of the central heating programme; indeed, we wish the programme to be extended to low-income families, which is an issue that I have raised before. Given the punitive increases in fuel costs in the past few years, has the minister made representations to Westminster about increasing the £200 winter fuel allowance and extending that scheme to low-income families so that they can switch on any central heating that they have?

Malcolm Chisholm: The fuel price increases raise a range of issues. I have written to the energy companies to urge them to do everything they can—more than some of them are doing—to help their low-income customers. We are extensively using other policy levers that we hold, such as improved insulation. Nine out of 10 people who were in fuel poverty and who have had central heating installed under the central heating programme were moved out of fuel poverty as a result. The price rises obviously raise issues for the Westminster Government, on which we have on-going discussions. The important point in the present situation is that all the players should do everything in their power to ensure that the unwanted price increases do not have the effect that we fear on low-income customers.

Right-to-buy Policy (Pressured Areas)

5. Tricia Marwick (Mid Scotland and Fife) (SNP): To ask the Scottish Executive how many local authorities have applied for, and been granted, the right to suspend the right-to-buy policy in pressured areas. (S2O-9094)

The Minister for Communities (Malcolm Chisholm): Five local authorities have applied for right-to-buy pressured area designations. The Scottish ministers have approved designations in three local authority areas so far and two applications are being assessed.

Tricia Marwick: Given that a recent survey showed that 77 per cent of councillors support action in pressured areas, will the minister simplify the application process for pressured area status and take steps to speed up the decision-making process in the Scottish Executive? Can he give an update on when he expects to make a statement on the right-to-buy consultation?

Malcolm Chisholm: The work on the report on the right to buy is on-going and the report will be

produced in the autumn. I have considered how long some applications take and I am satisfied that the right procedures are being used. A thorough assessment must be carried out when it is proposed to remove from an area the right to buy.

Some local authorities have provided the necessary information quickly. East Renfrewshire's application, for example, was processed quickly. It took a bit longer for South Ayrshire because we did not get the information that we required quickly, but that has now been dealt with. I have looked into the matter and I think that the procedures are correct and that exemption from the right to buy in pressured areas is an important part of the 2001 legislation. That is a good approach for us to take to the right to buy.

Planning etc (Scotland) Bill

6. Mrs Mary Mulligan (Linlithgow) (Lab): To ask the Scottish Executive how the Planning etc (Scotland) Bill will benefit local communities. (S2O-9084)

The Deputy Minister for Communities (Johann Lamont): The proposals that are set out in the Planning etc (Scotland) Bill will result in a more efficient and transparent planning system, with community involvement at its heart.

Mrs Mulligan: I understand that there is no mention of consultation or public involvement in the bill. Without a clear indication of how consultation and public involvement will be enacted, people will continue to think that the only way to address the present inequalities is to introduce a third-party right of appeal. Does the minister intend to amend the bill so that there is no doubt that communities are at the heart of the planning system?

Johann Lamont: As the bill goes through Parliament—particularly stage 1, in which the Communities Committee is dealing in detail with the challenges and opportunities that are presented by the bill—there can be no conclusion other than that community engagement is threaded right through the bill, rather than just being a bolt-on to it. On whether the word "consultation" is in the bill, perhaps the bill includes something more explicit and tough. I can give examples of inclusion measures that encapsulate the national planning framework: they are in the bill, in the development plans scheme, in the development plan itself and in development management. We are clear that communities have to be engaged at an early stage, particularly on development plans. It is essential at every stage that communities be kept fully informed and have an opportunity to make their voices heard. I do not accept the characterisation that has been made. I am happy to go through the specifics of the bill in more detail with Mrs Mulligan, but I am confident

that, in committee in particular, those challenges will be explored.

Patrick Harvie (Glasgow) (Green): I put it to the minister that despite the warm words and sound tone of the white paper, the bill is a substitution of existing rights with opportunities for consultation. Will the minister confirm that individuals and communities will, for example, lose the right to have their local plans subjected to a public inquiry, that process being determined by the reporters unit? To do away with consultative drafts of plans will remove people's right to engage in the detail at that stage. Given the substitution of rights with mere consultation, many people will be left feeling that they will have less power under the new system than under the old one and that they will have less incentive to engage in the up-front involvement that we all want.

Johann Lamont: Everybody recognises the challenges of the bill, but if people are going to be discouraged from being involved by people constantly telling them that the bill is not an opportunity but a sell-out, cynicism and disengagement will be created that will be difficult to turn round. Those are not "warm words". Close study of the bill will establish that community involvement and community engagement are at the beginning of the process. Any test of an application has to be matched against the quality of community engagement. By putting the development plan at the centre of the planning process, we will allow engagement and involvement at an early stage.

I do not accept the notion that there will be a substitution of rights. There are clear rights in the bill. It is unhelpful for people who are opposed to the proposals in the bill to focus simply on one acid test regarding a third-party right of appeal. The bill attempts to encapsulate all the challenges and complexities of the planning process. I assure Parliament, as the Executive has done previously, that we are entirely committed to people being able to shape their communities and to there being as much transparency in the process as possible.

Civil Service Job Dispersal (Dundee)

7. Shona Robison (Dundee East) (SNP): To ask the Scottish Executive what progress is being made in the dispersal of civil service jobs to Dundee. (S2O-9058)

The Deputy Minister for Finance, Public Service Reform and Parliamentary Business (George Lyon): Under the Scottish Executive's relocation policy, more than 131 posts have been established in Dundee since 1999. That number includes 29 staff members relocated to the Scottish Social Services Council, 72 to the Scottish Commission for the Regulation of Care

headquarters and 30 to the Office of the Scottish Charity Regulator. I assure the member that Dundee will continue to be considered as a potential site in future location reviews.

Shona Robison: Does the minister appreciate that, although Dundee started from a low base, those welcome job transfers represent a mere 0.3 per cent growth in civil service jobs in the city since 1999? I am sure that the minister is aware that three sites in Dundee have been identified for possible future relocations, but will he give me a clear timetable for when Dundee can expect more jobs to be dispersed to the city? Does he appreciate that, if he cannot, *The Courier's* comment that there has been more talk than action on the issue will be seen to be well founded?

George Lyon: Because of the location reviews and engagement between the Executive, local councils and local enterprise companies, we have identified 500 sites and locations to which we can consider relocating civil service jobs under the relocation policy. However, I cannot assure Shona Robison that the sites that Dundee City Council and the local enterprise company have identified will be taken into consideration in any future plans to relocate civil service jobs.

Waiting Times

The Deputy Presiding Officer (Murray Tosh):

The next item of business is a debate on motion number S2M-3990, in the name of Andy Kerr, on “Fair to All, Personal to Each”—the progress on waiting times.

14:57

The Minister for Health and Community Care (Mr Andy Kerr):

This is a very good day for the national health service, its patients and the people of Scotland. Today, we can confirm the best performance ever recorded for in-patient, day-case and out-patient waiting. We can also confirm the lowest in-patient and day-case waiting list for a number of years—down 5,504 since last year and the lowest December figure since 2001—while the out-patient waiting list has reduced by 62,000 over the past year, which represents a reduction of more than 26 per cent. Moreover, NHS Scotland has again met and maintained the guarantees and targets for heart treatment: no patient is waiting more than eight weeks for a heart investigation or more than 18 weeks for heart bypass surgery or angioplasty.

I thank all NHS staff for their efforts day in, day out in delivering that outstanding performance. My thanks go to the doctors, the nurses, the surgeons, the porters and the cleaners—indeed, all our health care team in Scotland. A few years ago, thousands of people with waiting time guarantees were waiting more than nine months and even 12 months, but now no one with a guarantee is waiting more than six months. A year ago, many said that those targets were impossible to achieve and, as recently as three months ago, some members said that it was inconceivable that they would be delivered, but NHS Scotland has again confounded its doubters and critics by achieving improvements in access and service delivery to the benefit of patients throughout the country.

I will put that achievement in the context of where we have come from and the approach that has been adopted. I will also look forward to the next steps—what further progress we believe the NHS can achieve. The figures are no flash in the pan: the NHS has made continuous improvements in waiting time performance in recent times and has met and maintained its promise to deliver a maximum wait of 12 months, then nine months, now six months and, soon, 18 weeks.

Before our devolved Government's actions, 18-month waits were common, but 18 weeks is the new standard for the NHS. That has not occurred by accident. Over the past few years, the NHS has introduced many innovative ways of working, from

new ways of booking appointments to better use of our specialist staff. The result is greater capacity in the NHS and better, faster services for patients.

New ways of working have also been coupled with a new structure inside the NHS. Single-system working is now the norm and, supported by a greater emphasis on regional planning, collaboration provides better, seamless services for patients. Community health partnerships are becoming the champions of local primary health care and social care by bringing services together for the benefit of the people who use them. The NHS could not have achieved its performance without a whole-system, collaborative approach that harnesses all parts of the NHS and encourages them to work together. A good example is the detailed planning that is being undertaken for the east of Scotland elective treatment centre at Stracathro, which will expand elective capacity and separate it from unscheduled care. That centre is absolutely in line with “Delivering for Health” and with a whole-systems approach to reducing waiting times. I acknowledge the role that the independent health care sector plays in helping to tackle the longest waits.

Mr John Swinney (North Tayside) (SNP): The minister mentioned the steps that are being taken to expand capacity at Stracathro. The expansion is welcome, albeit that we might debate and disagree about the mechanism that is being used to finance it. Has the minister given any consideration to the impact that the attraction of staff to the expanded Stracathro facility might have on the capacity of the public sector NHS and on its workforce?

Mr Kerr: Yes, absolutely. That is why we have been planning the process for a number of months—indeed, for longer than that—and will continue to do so. We are confident that we can add additional capacity to the NHS to the benefit of patients.

We see good examples of additional capacity throughout the country. For example, NHS Lothian had a capacity shortfall in the specialty of ear, nose and throat services. The board hired a mobile surgical facility to tackle the backlog of ENT cases, and more than 600 patients were treated there. In the next couple of weeks, NHS Highland will bring a similar mobile surgical unit to Inverness, and NHS Grampian recently announced that it will extend the stay of a mobile operating theatre and ward in Aberdeen to perform a variety of day-case general surgical work and vascular surgery. More than 500 patients will be seen or treated by the end of March. Another first for the NHS in Scotland is the United Kingdom's first mobile endoscopy unit, which started work in

Lothian last week. It will provide swift treatment for more than 500 patients.

Carolyn Leckie (Central Scotland) (SSP): What plans does the Executive have to monitor what happens to patients who receive care in private mobile units? How does the Executive monitor safety? The NHS has to pick up the pieces if people get inadequate care.

Mr Kerr: I remind the member that the patients that we are talking about are our patients; they are not the private sector's patients. The projects are governed by the NHS according to its clinical governance standards in negotiation with the suppliers. If one meets patients who have received better, quicker and safer treatment under such projects, it is clear that they do not give a jot about that—they want the service, and we need to deliver it to them.

We hear a lot of talk about the Golden Jubilee national hospital, which is our national waiting times centre. When it was purchased by the NHS in 2002, it undertook 2,500 operations per year. We took it from the private sector into the public sector and we have increased the number of procedures more than tenfold.

Shona Robison (Dundee East) (SNP): The minister commented that when patients receive treatment in the private sector it is better and safer. Better and safer than what?

Mr Kerr: With due respect, I was saying that any patients whom I have met have said that they are happy to receive that service. It reduces the wait for them and their families and, if they are in employment, it gets them back to work more quickly. *[Interruption.]* Listen to the prophets of doom and gloom. Everything is better and quicker in our national health service in Scotland, including the use of the independent care sector. The benchmark against which I measure people is the improvement in public service in our NHS. That is at the heart of all our improvements. It is the key driver for change, and it is making a real difference.

Contrary to recent reports, the Golden Jubilee national hospital is not underutilised. It has exceeded its activity targets year on year and has made a substantial contribution to the success that we are celebrating today by reducing waits for patients from throughout Scotland. I remind the doubters in the chamber—there are a few—that almost 95 per cent of the hospital's capacity to the end of March 2007 has already been allocated by NHS boards.

Mary Scanlon (Highlands and Islands) (Con): Is the minister concerned by Audit Scotland's survey of patients, which found that less than 5 per cent of patients had been offered treatment at

an alternative location such as the Golden Jubilee national hospital?

Mr Kerr: I would be concerned by that. Every month I remind our NHS board chairs that we want to achieve better choice for patients. I argue strongly that more use should be made of the Golden Jubilee national hospital and other parts of our national health service. I want patients to be empowered, and I want general practitioners to use the national waiting times database to allow their patients to have better, more appropriate and quicker choices if they are able to take up such offers.

There have been lots of changes and improvements in our national health service, but I reiterate that one thing remains the same—our absolute commitment to comprehensive health services that are available to all according to their clinical need and that are, of course, free at the point of delivery. That is the foundation of the NHS, and it will remain so under this Administration.

Because we believe that the people of Scotland want to see further improvements to their NHS that build on that foundation, I launched "Fair to All, Personal to Each" a year ago. It set out a comprehensive package of improvements on behalf of patients and introduced more demanding waiting times targets, including a maximum wait for out-patients, in-patients and, of course, day-case patients of 18 weeks by the end of 2007. To the doubters I say again that I am absolutely confident that we will meet that target. Our NHS will respond to the challenge and deliver for patients.

Reflected within "Fair to All, Personal to Each" is the fact that we also want to improve the quality of life of our older people, which is why we have introduced shorter maximum waits for procedures such as cataract removal and emergency surgery following hip fracture.

It also set new standards in other areas of waiting, including accident and emergency departments and key diagnostic tests. We are determined to work with our NHS to ensure that those new levels of performance move from aspiration to delivery.

"Fair to All, Personal to Each" also included our commitment to abolish availability status codes and to introduce a new system of defining and measuring waiting that is fairer, more transparent and more consistent. There is a great deal of misinformation about ASCs, which comes largely from the SNP, sometimes followed by the Tories. I often hear opponents in this chamber refer to ASCs as "hidden waiting lists". Nothing could be further from the truth. NHS board information on the numbers of ASCs is published regularly on the

acute hospital care website along with other waiting times and waiting list information. Patients with ASCs are included in the count of patients on the waiting list, and in-patient and day-case waiting times are included in the calculation of median waits, so let us hear no more talk of "hidden waiting lists". Would any SNP member like to intervene on that point? I thought not.

It is important to remember that nine out of 10 ASCs are driven by patients—it is they who say that they are not available to receive the service that we offer. They ask for delayed admission for personal reasons, or they do not attend at the arranged appointment time, or they have an underlying clinical condition that affects their ability to undergo treatment. In other cases, patients are waiting for highly specialised treatment or treatment of low clinical priority, such as tattoo removal.

Shona Robison: If ASCs are such a good tool, why is the minister going to abolish them?

Mr Kerr: If the member had been listening—and she probably was not—she would know that we want to be more open and transparent and fairer to patients.

I hear Mr Swinney laughing, and ask him whether he is willing to blame the NHS for the 18,401 patients who were unable to attend despite getting reasonable offers of treatment. Is he asking the 3,914 people who did not show up when they had an appointment if they want to blame the NHS for that? I think not. It is inappropriate and unfair that the SNP wants to blame the NHS for that.

ASCs are applied by the NHS in line with the national guidance that was issued in March 2005. I have asked Shona Robison umpteen times to bring me one case in which an ASC has been misapplied by an NHS board. If she can, I will deal with it. I asked her that more than 12 months ago, and she has not come up with the name of one person, one clinician or one general practitioner who has misapplied an ASC. Let us hear no more of that; it is an insult to the NHS and to those who work in our NHS.

Shona Robison: The minister has spent half his speech talking about hidden waiting lists.

Mr Kerr: The member might say that, but that is because she seeks to undermine the achievement of the NHS by abusing the statistics. It is quite appropriate that we should spend time talking about those matters.

We want the NHS to change for the future. We are working hard on the redesign of diagnostic services such as barium studies, endoscopy, magnetic resonance imaging and computerised tomography scanning. Alongside service

modernisation, we will continue the rapid investment that we are making in the NHS that is delivering for patients. We want to drive hard the effective performance management of our NHS, and increase resources, matched by increased results.

Patients will be able to rely on even shorter waiting times. By the end of 2007, no one will wait more than 18 weeks for in-patient or day-case treatment or for a first out-patient consultation. Neither will anyone wait more than nine weeks for key diagnostic tests. Those who are waiting for cardiac or cataract operations will experience a start-to-finish waiting time that will stand comparison to best European practice.

Members will agree that Scotland is building an NHS that is responsive to patients and which is tackling the diseases and conditions that affect the quality of life of so many Scots. The NHS is also bringing the values of its foundation into the modern age—local, accessible and caring, but still free at the point of need. It is consigning lengthy waits to the past, and looking to the future with confidence.

I move,

That the Parliament welcomes the significant progress made by NHS Scotland to reduce waiting times; applauds the dedication and hard work of all NHS staff who have helped meet the targets for patients; acknowledges the contribution made by the Scottish Executive through additional investment in the NHS; notes that partnerships with the independent healthcare sector have also contributed to the capacity available to treat NHS patients; supports the continuing work by the NHS to modernise and redesign services to further improve access and accelerate diagnosis and treatment, and supports the Executive's commitment to achieve further improvements in waiting times while securing a modern sustainable health service for Scotland on the basis of *Delivering for Health*.

15:11

Shona Robison (Dundee East) (SNP): I pay tribute to the hard-working staff of the NHS who have done their best to deliver progress in meeting targets for patients with waiting time guarantees. There is no doubt that the NHS treats those patients more quickly than was the case under the minister's predecessor. Staff have delivered what they were asked to, and we recognise their achievement.

While recognising the progress that has been made for patients with waiting time guarantees, we should also recognise that it is a different story for those who are without one. I remind the minister that they are not simply a handful of patients, but one third of all patients who are on waiting lists in Scotland. Those patients have no right to be treated according to the waiting time targets, yet most of them will still require to be treated by the NHS at some stage. The Executive's policy is at

fault: it has excluded one third of patients from a waiting time guarantee. This is not the result of decisions made by NHS staff.

Last week's report into waiting times from Audit Scotland was balanced. It recognised the progress that has been made, but also raised major concerns on several fronts. From the waiting list census information, the report revealed the true extent of hidden waiting lists in the NHS for those who are without a waiting time guarantee. It revealed that, as of September last year, the number of people without a waiting time guarantee had increased—approximately 24,000 patients were waiting more than six months. That is unacceptable.

Mr Kerr: What is the Scottish National Party's policy on patients who are unable to attend appointments or treatments despite reasonable offers from the NHS? That is often the case with patients whose treatments are of low clinical priority, such as tattoo removal, or patients whose highly specialised treatments are not readily available. Some people simply do not attend their appointments, and others cannot attend because of medical constraints. How does the member propose to deal with those cases?

Shona Robison: I would abolish ASCs and ensure that all patients have a waiting time guarantee. As the minister will do the same at the end of 2007, why does he not do it today? If ASCs are fundamentally flawed—which the minister accepts, because he will abolish them—he should abolish them now.

The situation is even more concerning if one considers the waiting time information that is collected by ISD Scotland. The minister should recognise those figures, as they are Government ones. They show retrospectively how long people actually waited for treatment—that is, the actual time patients waited from the point when they were added to the waiting list to the date of treatment or appointment. Today, the SNP released figures that show that by the end of 2005, approximately 40,000 Scots had waited more than six months for treatment. They undermine the minister's claim that no patient waits more than six months for treatment and add weight to the SNP's numerous calls for the immediate abolition of ASCs, which are widely discredited and are regarded as hidden waiting lists.

Mr Kerr: The member referred to 38,755 referral patients who were treated in 2005. It is disingenuous to claim that. The ISD Scotland figures show that on 31 December 2005 only two patients with a guarantee had not received their treatments in six months. The figure that was quoted merely illustrates the scale of effort put in by the NHS to treat those very patients.

Shona Robison: The minister seems to misunderstand the point that it took more than six months for those patients to actually receive treatment. The minister can shake his head, but that is what "retrospective waiting times" means. It means looking back at how long people waited. The minister may need a briefing from ISD Scotland to explain how that works.

I want the immediate abolition of ASCs. They should go now, because patients deserve cast-iron patient rights, not fiddled waiting time figures.

Mr Kerr: How can the figures be retrospective if the target was to be met in December 2005? Going back one year means nothing. At the point of delivery, only two patients were waiting.

Shona Robison: I am not denying that: I am saying that for 40,000 patients it took more than six months to be treated. That is not a difficult concept to grasp—I do not know why the minister has difficulty with it.

We must now look to the future. We need to be ambitious when it comes to waiting times. Audit Scotland says that future waiting time targets are challenging, but the Executive's target for the whole patient journey is 36 weeks, which is double that in England. Surely we need to raise our sights and expect the system here to deliver a waiting time commitment that is similar to that which has been given south of the border, especially given the level of investment in the health service in Scotland.

With the right policies, Scottish patients will not have to wait longer for treatment than patients south of the border. That will require us to address a number of fundamental issues, not least the lack of capacity in the NHS in Scotland. Audit Scotland recommends better use of the Golden Jubilee national hospital and a better split between elective and emergency procedures. We agree, but we need to do more. It also makes the point that the increased use of the private sector to cut waiting times comes at relatively high cost.

The private sector may be a short-term fix, but only by making the NHS more efficient and productive can we deliver real, long-term reductions in waiting times. Funding methods such as payment by activity are just one way of improving productivity in the system and encouraging the NHS to do more by rewarding extra work.

Audit Scotland also suggests strengthening patients' rights within the system and giving them more choice about where they are treated, which it says would reduce waiting times. We agree with Audit Scotland that patients should be more involved in decisions about their treatment. Through our patients' rights proposals, on which we will consult soon, we want patients to have

greater involvement in and choice about where and when they are treated. We also want each patient to have an individual waiting time guarantee that is appropriate for them within the national waiting time guarantee limits, which would be maximum limits. Patients should expect to be given a clearer indication of how long they can expect to wait for treatment and should receive from the clinician who is assessing them an individual waiting time that is appropriate to their condition.

There is a need for an honest debate on waiting times. Today, we have been honest in acknowledging the progress that has been made in meeting waiting time targets for patients who have a waiting time guarantee. It is unfortunate that that has not been replicated by a more honest response from the minister, who should acknowledge where there is a need to do much better for all patients who are still waiting for treatment in Scotland.

I move amendment S2M-3990.3, to leave out from "welcomes" to end and insert:

"congratulates NHS staff for their hard work in delivering progress in meeting targets for patients with waiting time guarantees; however recognises the recent concerns of Audit Scotland that the number of people without a waiting time guarantee has increased, that nearly 24,000 patients have been waiting more than six months for in-patient and day case treatment and that the total number of people waiting for in-patient and day case treatment has changed little in the last two years; further notes that Audit Scotland's report, *Tackling Waiting Times in the NHS in Scotland*, regards the increased use of the private sector as being "relatively high-cost" compared to the NHS; welcomes the report's recommendation that there should be greater involvement and choice for patients, and therefore commends the SNP's Patient Rights proposals to provide every patient with an individual waiting time guarantee appropriate to them within national waiting time targets."

15:18

Mrs Nanette Milne (North East Scotland)
(Con): There has been quite a build-up to today's debate. Following this morning's self-congratulatory press conference, it is no surprise that the minister is in good fettle this afternoon. After the previous two speeches, my head is reeling with confusing statistics.

To be fair to the Executive, there have been significant achievements in the NHS. Over the past decade, there has been a 38 per cent drop in premature deaths from coronary heart disease. Cancer deaths are down by 8.5 per cent, with an improved prognosis for most types of cancer. By next year, spending levels in the NHS will be up by 89 per cent since 1997—a huge financial investment by any standards. Of course, that trend was started by the previous Conservative Government, which put major investment into

human resources in the NHS and into hospital building. I hope that the minister will be gracious enough to acknowledge that.

Despite today's encouraging figures, all is not well in the NHS. There are stark health inequalities between the rich and the poor. Although most patients with waiting time guarantees are now being treated within target times, there are still—as we have just heard—more than 35,000 patients without such guarantees, most of whom have been waiting for more than six months. According to Audit Scotland, the total number of people who are waiting for in-patient or day-case treatment has changed little.

We all know of local NHS facilities that are being closed or threatened with closure, against the wishes of local people who are vociferous in their opposition to what they see as centralisation of services that they hold dear.

By no means are all the Executive's targets being met. According to recent figures, only three quarters of cancer cases are being treated within the target of two months. That results in great anguish and worry for the remaining 25 per cent of patients.

Despite a target of reducing excessive alcohol intake, recent figures have shown that alcohol-related deaths have gone up by 21 per cent in the past five years and there has been a huge increase in emergency admissions for chronic liver disease and its complications.

Delayed discharge from hospital is still a problem because many councils do not have enough funding to provide care packages for the elderly patients who need them. That is despite the pledge that all those with unmet need for free personal care should have been identified and receiving the services that they need by 2005.

I am told that nurse recruitment is on target to bring 12,000 new nurses and midwives into the service by 2007, but that will only replace the nurses leaving the NHS and will not allow for the expansion in the nursing workforce that is needed if the delivering for health programme is to be achieved. That is a matter of great concern to the Royal College of Nursing.

There is a significant shortfall of capacity within Scotland's NHS. Admittedly, the Executive has begun to tackle that by entering into partnerships with the independent sector, but it has done so only in the past year or so. It has taken all this time to get back to where the Conservative Government was in the late 1980s when we started to use spare capacity in the private sector to treat NHS patients—and we were not half lambasted for that by the Labour Party of the day, which continually accused us of privatising the NHS, just as the Scottish National Party and

Scottish Socialist Party accuse the minister of that today.

According to Audit Scotland, the Golden Jubilee national hospital is still not being used efficiently. There are marked geographical variations in its usage, not because patients do not want to travel there—50 to 60 per cent of patients who were surveyed by Audit Scotland said that they would be willing to travel for treatment—but, as we know, because some health boards do not encourage their patients to go there. I was pleased to hear the minister's response to Mary Scanlon when she intervened on that point. Why did it take from 1999 to 2002 for the hospital to be used for NHS patients at all? Why did the hospital have to be bought at a cost to the taxpayer of many millions of pounds before the Executive would even consider using it for NHS patients? That money could have been used for patient treatment.

Short-term measures that were put in place under the Executive's waiting times initiative have been successful in helping to meet targets and to clear the backlog of patients who have been waiting a long time. However, as Audit Scotland stated,

"Over-reliance on short-term measures, such as staff working in the evenings and at weekends, can be expensive"

and does not address the balance between demand and capacity.

What about NHS staff, who nearly all work flat out to try to meet patients' needs and to deliver a good service? By and large, the people to whom I speak are fed up with having to work under pressure to meet targets that are set by central Government and which often get in the way of their professional judgment. Every time I visit a hospital or meet a doctor or nurse, I am asked, "Why don't they lay off? Why don't they get rid of these targets and let us get on with our jobs?"

I am convinced that until patients are given more choice and control over their care and until health professionals are allowed to plan their work according to clinical priority rather than to satisfy Government targets, morale will remain low; recruitment and retention will continue to be a problem; and patients will continue to wait unnecessarily for appropriate treatment when it is required.

The minister has certainly achieved some good results, but to do better he will have to loosen the reins.

"You have to move faster in reforming public services, as the Prime Minister has done in England. You have to crack down on failing services, work even more closely with the independent sector, and extend choice in a much more ambitious way. Trust people, and drop the paternalistic idea that the state should provide a gradually improving uniformity".

Those are the words of the minister's colleague Jim Murphy MP, not mine.

The NHS is a mighty animal, but it would be better controlled and developed by the light hand of professionals rather than the heavy hand of politicians.

I move amendment S2M-3990.1, to leave out from "welcomes" to end and insert:

"notes the progress in eliminating the longest waits; is concerned, however, at the corresponding rise in patients with Availability Status Codes who are not guaranteed treatment within the waiting times target; notes that the extra money going into the health service has not been matched by corresponding increases in productivity; further notes that, despite the efforts and hard work of the NHS staff, patients are not receiving the level of service they demand and deserve because of insufficient capacity to meet demand; is concerned by the stark health inequalities existing between each end of the social deprivation scale, local health service facilities being closed against the wishes of local communities and a slow adoption of new drugs and technologies, and believes that Scotland needs to move to a system with greater responsiveness to the needs of individual patients and communities, put power back in the hands of professionals to prioritise treatment by clinical need and increase the capacity available to treat NHS patients by extending the use of the independent sector."

15:24

Carolyn Leckie (Central Scotland) (SSP): All the speakers so far have thanked NHS staff. None of them has mentioned the fact that, disgracefully, the Chancellor of the Exchequer and the Scottish Executive think that they are worth a pay rise this year of only 2 per cent, which is below the rate of inflation. I do not share that view.

I want to concentrate on the Executive's flawed policy of increasing capacity in the health service by privatising it. I am interested in the debate that is going on in the UK-wide Labour Party. Harry Burns, the chief medical officer, is pleading with NHS staff to support the Executive in resisting privatisation. However, in the motion and in the minister's speech, it is clear that the Executive wants to encourage increased privatisation and use of the private sector. Obviously, Harry Burns has not caught up with Executive policy. I would be happy to support the Executive if it were happy to resist privatisation. It is a pity, however, that there is nothing to support.

Jim Murphy has popped up to encourage the Scottish Executive to carry out even more privatisation, but I think that that is more about pleasing Blair and getting a job in the Cabinet than it is about health policy.

Margo MacDonald (Lothians) (Ind): Does the member agree that we should perhaps have more pity than scorn for Jim Murphy? I think that he suffers from a long-term chronic condition.

Carolyn Leckie: Thankfully, I do not know Jim Murphy very well. Having read his article, however, I can tell that he is Blairite to the core.

I would be interested to be a fly on the wall at the Executive's discussions. Unfortunately, I am a bit cynical about the Executive and think that the battle is lost because the Executive too is Blairite to the core. Jim Murphy and Blair advocate a policy of privatising the health service come hell or high water. The example of the NHS Lanarkshire consultation demonstrates the problem. The plan for the future in that case includes no plans to increase capacity or improve staff ratios despite an increase in the dependent and ill population. It plans to plateau bed numbers and staff numbers and not to improve staff ratios even though there will be a greater demand on the service. That is happening in the context of a shortage of money—to the tune of £32 million—that is a result of the inadequate application of the Arbutnott formula since 1999.

The idea that choice will address inequalities, which has been claimed by the Tories and the Executive, is nonsense. Poor people are less able to travel. The choice that is being offered is a false choice. There is no choice. People's first choice is to have local care in the local hospital in their community. It is false to suggest that to ask them to travel greater distances gives them a choice. Indeed, the examples in England show that the existence and proliferation of the private sector undermine the local hospital and lead to its closure. That removes choice and creates a monopoly for the private sector. That is the road down which we are travelling.

Even though we are on that road, the Executive is not prepared even to audit its policies in relation to privatisation. However, the work of Unison and Allyson Pollock has substituted for a Government audit of the effects of the privatisation of the health service. Their work shows clearly that NHS facilities, which have the advantage of pooling the risk between complex care and lower-risk care, are undermined by the introduction of the private sector, which creams off the low-risk, low-complexity but high-profit cases, leaving the NHS unable to compete—to use the parlance. That creates a virtual monopoly for the private sector in elective surgery, which further undermines the NHS.

The British Medical Association's deputy chairman, Sam Everington, recently said that the choice that is being presented is false and that people want more local core capacity. Unison clearly states that there has been no evaluation of independent treatment centres in England, yet the Executive is rolling ahead with the implementation of that policy in Scotland without any research to back it up.

The claims of increased efficiency, choice and value for money are simply not proven, as the Executive knows. Indeed, there is much evidence that privatisation compromises the safety and care of patients. Some 80 per cent of chief executives—no less—in England say that resources are being taken away from the NHS through privatisation policies and that patient care is being compromised as a result. We can cite many cases, for example that of Mrs Broderick in England, who waited in vain for oxygen for six hours, after the oxygen delivery service had been privatised, or the case that was reported in the press this week of Mrs Alma Murray, an NHS patient in a private bed that was contracted to BUPA. Mrs Murray's case demonstrates how the problem of privatisation rears its ugly head and creates situations in which there is no audit mechanism, no responsibility and no accountability.

When I asked the Executive recently to tell me what happens to patients who are moved to the private sector and perhaps receive inferior care, it could not answer my question, because it does not follow up cases or hold evidence or statistics on such matters. That is a disgrace. The truth is that the Executive, like Blair, is pushing policies while wearing ideological blinkers. The Executive is more interested in creating profits for private health care than it is in patients.

I move amendment S2M-3990.2, to leave out from "welcomes" to end and insert:

"applauds the dedication and hard work of all NHS staff who have helped meet the targets for patients; notes that the NHS has insufficient core capacity and insufficient core staffing of establishments resulting in increased overtime and locum costs; believes that resources that should be directly spent on patient care are being diverted to increasing the profits of private health providers; believes that NHS patients treated by the private sector have had their care standards compromised, for example patients treated by the Advanced Centre for Eye Care (ACE) and those in England with severe respiratory illnesses made reliant on oxygen supplied by the private sector; believes that all private healthcare providers in Scotland should be urgently audited by Audit Scotland to determine whether the standards of care provided are putting patients at risk or imposing additional care burdens on NHS staff; believes that the NHS is under threat as a public health care system and that urgent action is required to protect and improve it, including increased investment in training to provide more NHS doctors, dentists, clinicians, other professionals and support staff to increase the NHS's own capacity, and believes that Scotland's stark health inequalities will only be intensified by the increased involvement of the private sector."

The Deputy Presiding Officer: I call Euan Robson to close for the Liberal Democrats.

15:31

Euan Robson (Roxburgh and Berwickshire) (LD): I will try to open first, Presiding Officer.

The Deputy Presiding Officer: Yes, indeed.

Euan Robson: I am grateful for the opportunity to set out the Liberal Democrat perspective on the "Fair to All, Personal to Each" agenda and the progress on waiting times. I start by putting on the record my party's thanks to all the people in the NHS who have worked so hard to deliver the improvements to waiting times in Scotland that have been achieved in the past year. It was good that all parties in the Parliament expressed their appreciation of the achievement of the targets to reduce maximum waits to six months for in-patients, day cases and out-patients by December 2005. I am sure that all members recognise that by seeking to ensure further improvements we rely on the hard work, enthusiasm and innovation of staff.

As the minister said, many people thought that it would be impossible to achieve the targets. However, not only have the targets been achieved, but the best performance ever in Scotland has been reported for in-patient, day-case and out-patient waiting. The out-patient waiting list has reduced by some 62,000 during the past year—that is more than 26 per cent. NHS Scotland has maintained the guarantees on targets for heart treatment whereby no patient waits more than eight weeks for heart investigation or eighteen weeks for heart bypass surgery or angioplasty.

The "Fair to All, Personal to Each" agenda envisaged further improvements for in-patients, out-patients and day cases by the end of 2007. The people who doubted that the 2005 targets could be achieved should at least acknowledge in the light of the evidence that the 2007 targets are achievable. In passing, I note that a key measure for the Liberal Democrats is that by the end of 2007 no one should wait more than nine weeks for key diagnostic tests. Such tests are crucial in ensuring that the right treatment is delivered for the patient.

The minister referred to a number of redesign projects, which he said had helped markedly to ensure the delivery of the targets. I ask him to ensure that health boards share their experiences. If a central mechanism is needed whereby best practice can be shared, I ask him to ensure that such a mechanism is developed soon.

My local health board, Borders NHS Board, has developed an orthopaedic multidisciplinary team, which has released appointments for orthopaedic consultants. I understand that the team comprises two specialist practitioner physiotherapists, a specialist practitioner podiatrist and a general practitioner who has a specialist interest in orthopaedics. Between April and September 2005, the team saw 310 patients, which released 264 patient appointments for the consultant to treat

patients who had more specialised needs. The waiting time to see the multidisciplinary team has consistently been 13 weeks shorter than the consultant waiting time. That is one example of the innovations that are being introduced across Scotland to ensure that waiting times are reduced.

Margo MacDonald: The member mentioned two specialist physiotherapists and a multidisciplinary team. Does he know whether, when people are referred, they are given a block of physiotherapy appointments or they simply receive treatment for as long as they are under the multidisciplinary team's care?

Euan Robson: I regret that I am unable to answer that question, but I will find out and tell the member informally.

Another notable success occurred in NHS Dumfries and Galloway, where general practices improved their waiting times by 75 per cent over the first 10 months of the programme. Such innovations and those that the minister outlined are making a significant difference for patients.

The Liberal Democrats also welcome private sector partners' contribution to the reduction in waiting times. There is no reason why the NHS should not work in partnership with the private sector if that work is carefully planned and is being done for a specific reason. That in no way implies that the NHS has any less of a commitment to delivering care and treatment that are free at the point of access. Instead, it is a sensible and practical way of using available resources to deliver what patients need in certain circumstances.

Carolyn Leckie: Will the member give way?

Euan Robson: No.

Similarly, the Golden Jubilee national hospital—otherwise known as the national waiting times centre—has made an impact on waiting lists. The minister pointed out that, since the hospital joined the NHS in June 2002, there has been a tenfold increase in the procedures that are being undertaken. Some criticism has been levelled at what has been described as the hospital's higher costs. However, as its chief executive Jill Young recently underlined on "Newsnight Scotland", the hospital delivers a range of more specialised services—not the general mix of services that other NHS hospitals offer—and does not deal with relatively low-cost injuries such as minor sprains, strains and fractures. Indeed, as she pointed out, the hospital has focused its orthopaedics on high-cost knee transplants. As those implants can cost as much as £8,000 each, we are indeed talking about a very high-cost procedure. As a result, it is not fair to compare the costs of the national waiting times centres with those of other NHS facilities.

However, I also agree with the deputy auditor general, Caroline Gardner, who said on the same programme that more information about what the national waiting times centre can deliver ought to be made available by boards to patients.

On behalf of my party, I welcome the progress that has been made thus far in reducing waiting times.

The Deputy Presiding Officer: Before I go to the open debate, I advise members that we are a bit behind the clock. In order to get everyone in, I will give six minutes to Helen Eadie, Stewart Stevenson and Eleanor Scott and five minutes to the remaining speakers in the open debate.

15:37

Helen Eadie (Dunfermline East) (Lab): I rise to support my colleagues in the Scottish Executive.

This is a proud day for the Scottish Parliament, the minister, the Labour-led Executive, NHS staff and the people of Scotland. There can be no more significant challenge to the Parliament than maintaining and improving the health and well-being of Scotland's people. There has been much discussion about the state of the NHS and the direction of health care in Scotland. Increasing the NHS's efficiency and effectiveness is at the heart of Labour Party policy and ambition. We created the NHS, we uphold its values and we have ensured not only that it survives but that it thrives. The minister's announcement proves that commitment and proves that the NHS is being reformed for the 21st century.

What is crystal clear is that patients with life-threatening diseases are being put to the top of any waiting list. Opponents of the Labour Party and the NHS cannot complain that the Executive has not demonstrated the utmost commitment to the health service.

Stewart Stevenson (Banff and Buchan) (SNP): I realise that this is an unusual question to come from these benches, but will the member remind me of what political party Mr Beveridge was a member?

Helen Eadie: Mr Stevenson does not need to ask that question—he knows the answer to it very well.

Record amounts of funding have been pumped into the service. Opponents claim that the funding has been ineffective and that it has all disappeared down a black hole. No one should doubt for a second that the funding and running of a major service pose questions of efficiency, but the figures that have been released today show that great improvements are being made.

Television companies have favourite people whom they pull out when they feel that they have a

point to make and, on several occasions recently, I have watched and listened to Dr Andrew Walker, who has been a budget adviser to the Scottish Parliament Health Committee. Dr Walker repeatedly claims that, despite unprecedented new financial resources being made available to the NHS, little additional activity has been achieved. This is a vital side of the balance sheet—there has been enormous activity and throughput. In a report for the Health and Community Care Committee's budget process in 2002, Dr Walker highlighted how activity had increased by as much as four times in five key areas of surgical procedure. In one case, the procedures increased from 1,500 procedures in a year to as many as 6,000. He gave figures for the angioplasty, cataract, hip replacement, knee replacement and cardiovascular specialties. We are talking about vital, major procedures that are undertaken in the health service and which cost enormous amounts of money.

Mr Stewart Maxwell (West of Scotland) (SNP): If that is true, why does the Audit Scotland report state that the overall number of people waiting for in-patient and day-case treatment has changed little in the past two years?

Helen Eadie: We should consider the sheer number of people who now come forward. The more that is put into a system, the more efficient it should be. As medicine improves, people require more and better operations. In years gone by, people could not have hip replacement operations. The health service can now carry out many new procedures, which it has done.

The clinicians to whom I have spoken in hospitals and in my constituency have applauded the unprecedented finance that they have seen coming into the system. They have never had as much money. They tell me about problems, which undoubtedly exist—indeed, we would be dishonest if we said that there were no problems. However, the Labour Party profoundly thanks all the professionals from the top to the bottom of the NHS who have helped us to deliver objectives.

Carolyn Leckie: Will the member take an intervention?

Helen Eadie: I have allowed enough interventions for the time being.

I return to today's news. The picture that the figures paint is that the Executive is succeeding in reducing waiting times. It has met and improved on waiting time targets, which went from a maximum of 12 months to a maximum of nine months in 2003 and to a maximum of six months by December 2005. Some 14 out of 15 health boards had no one waiting for more than six months for in-patient or day-case treatment or out-patient consultation in December 2005. In the

whole of Scotland, only two patients waited for more than 26 weeks for a first out-patient appointment and only two patients waited for more than six months for in-patient and day-case treatment. That figure is down from 6,003 patients in December 2004. The maximum waiting targets of eight weeks for heart treatment investigation and 18 weeks for heart treatment were achieved. In total, the out-patient waiting list has fallen by 22 per cent over the past year, by 52,516 to 188,367.

I noted with interest Annabel Goldie's comments on health earlier today. She is in danger of exposing further the Tories' true agenda for the NHS in Scotland—I refer to their patient passport proposals. Patients would have to pay £6,000 to £8,000 for a hip replacement. I cannot imagine what people in my constituency would do if they were faced with a bill for £16,000 and were given a voucher for £8,000 by the Tories. How would that help the poorest in our land? The Tories' proposals defy belief.

Mrs Milne: Will the member give way?

The Deputy Presiding Officer: The member is almost finished.

Helen Eadie: This is a proud day for all of us. Let us take heart from the successes of the NHS in Scotland and let us be emboldened to continue our work to make our health service the best and to make it fit for the 21st century.

15:44

Stewart Stevenson (Banff and Buchan) (SNP): An interesting thing about the health service and the politics that have surrounded it from the outset is that there has been broad, all-inclusive consensus across political parties that we want a health service that is free at the point of delivery. That consensus has been almost unique to our islands, compared with what has happened elsewhere in the world. For most of their history since the health service was first discussed in the early 1940s—Beveridge was, of course, a Liberal; perhaps Helen Eadie has forgotten that—even the Tories have wanted such a health service.

Helen Eadie: I know that, but did not want to say it.

Stewart Stevenson: Even I am prepared to acknowledge the contributions of others, as I am doing in my introduction.

That consensus of objective is something that we must not forget when we agree—with vigour, with passion—about the details of the policy to deliver on the community-accepted, politicians-accepted consensus. Of course, we have some fundamental differences over the details, but it is remarkable that that consensus has stood for more than 50 years. It may show signs of breaking down, from time to time, but it stands.

I characterise the Executive's current approach to the health service as one that has merit but also presents future difficulty. It is somewhat reminiscent of the generals of the first world war: one last heave, some more resources, and by throwing bigger munitions at the target we move a mile or two forward. Then something happens in the health of our community—its aging profile, or new, expensive procedures—that moves us back. That is a real difficulty for any Executive of any party to consider. While we look at the issues that are before us today to do with the current and recent past operation of the health service, we must not blind ourselves to the need to look to the significantly distant future and see what we need to do today to help it.

One of the ways in which we might consider the subject is through the prism of the current state of our dental service. Dentists have not been mentioned so far in the debate, although the Auditor General quite properly includes

"Consultation with GP or dentist"

in exhibit 1 on page 5 of "Tackling waiting times in the NHS in Scotland". Of course, the Executive has not set any meaningful targets for and has not targeted the improvement of dental care in the same way as it has done for other parts of the health service.

Mr Kerr: Will the member give way?

Stewart Stevenson: I will let the minister in, but first I want to make an important point. We are where we are on dental care, with the very real difficulties that we have, not because of what has happened since 1999—I accept that, and I think that it is useful to say that before the minister rises to speak—but because of a long-term neglect of that part of the health service.

Mr Kerr: On Stewart Stevenson's substantive point about the future of the NHS, if he looks at the trajectory of the number of patients who are waiting more than six months, he will see that there has been a gradual decline. That suggests to me that substantial changes are taking place inside the NHS that are sustainable and will continue to deliver. It is not a one-off throwing of resource; it is a consistent, sustained effort.

Stewart Stevenson: I acknowledge the changes that have been achieved in both the processes and the delivery of service. Nevertheless, slipstream planning—looking over one's shoulder at the past—is not an adequate basis for planning for the future. That is my key point. Yes, we have got where we are by throwing huge resources at the problem. That was the only thing that we could do in the short term, but our aim is somewhat imperfect.

The problems with the dental service have occurred over a long time because of a lack of

training and a lack of appreciation of what we need in dentists. Are we planning adequate provision for doctors, dentists and nurses in the future? People may decide today to become a doctor and start on that road, but it will be 10 years before they are doctors, and we have no material planning for the health service that goes that far ahead. For nurses, the period is probably six years. There are huge problems.

One initiative from which we have, as yet, seen little material contribution is the e-health strategy. Yes, things have happened. However, when we introduce, for example, new out-of-hours services—which bring not the GP but other people to the table—and NHS 24, which brings other people who are unfamiliar with, and who do not generally have access to, patients' records to the triage process, we reduce the operational efficiency of the health service. Albeit that those are things that we should do, we are doing them in the wrong sequence and we are not putting the resources in place before we move forward.

I think that, in England, much more substantial efforts are being made in the use of computer technology, which we might look to copy in Scotland. Much has been done, but there is a great deal still to do.

15:50

Eleanor Scott (Highlands and Islands) (Green): As members know, I am not on the Health Committee, but I have the honour of serving on the Audit Committee, which this week considered the Audit Scotland report "Tackling waiting times in the NHS in Scotland". I acknowledge that, as the report recognised, the NHS in Scotland has made significant progress in meeting waiting time targets. I join other members in paying tribute to the NHS staff who have achieved that.

Part 1 of the report is headed "Factors that influence waiting times". I can remember from my own time in the NHS waiting list initiatives and boards getting clumps of money to tackle a particularly large waiting list. The report notes:

"Evidence suggests that short-term increases in activity at particular points in the system"—

which are seen as bottlenecks—

"do not lead to sustained reductions in waiting times."

That makes sense. There is no point in shifting bottlenecks from one point in the system to another. There must be an holistic examination of the entire organism that is NHS Scotland. Whether we are talking about a patient's journey or about a car journey, tackling bottlenecks piecemeal just shifts the problem somewhere else.

For the NHS as a whole, I believe that we must deal with overall capacity and plan for a future

need for increased capacity, which will result from our aging population and all the illnesses of poor diet and no exercise that are becoming all too evident. We are getting older and we are not necessarily getting healthier.

Part 2 of the report deals with performance. It is interesting: it clearly shows that, despite the progress that has been made towards meeting the Executive's targets, the total number of people waiting for in-patient and day-case treatment has not changed much in two years. The Executive is focusing on waiting times because, as it might reasonably point out—and as I would agree—that is what matters to the patient. However, the total number of people on the waiting lists has stayed constant because of those who do not have waiting time guarantees and who are given an availability status code—others have already mentioned that issue. That will not happen after 2007; those patients will be on the list along with everybody else. The waiting time guarantee will be affected by availability, but there will still be targets. That will present a challenge for NHS Scotland.

I mention that not just because everybody else has, but because we often concentrate on waiting times in our debates. As I acknowledged, that is what is important to the patient, but waiting lists are actually more important for service planners. Waiting lists are the predictors of future demand, and we should not ignore them or the fact that they have not decreased.

Part 3 of the report is headed "Current approaches to reducing waiting times". Some of those approaches have been quite innovative, and they show potential. One example is the idea of reducing referrals to specialists by setting up a system under which a GP can get specialist advice and thereby manage the case herself. That is applicable to some specialties, but it will not be applicable to others.

Separating elective procedures from emergency procedures is also being considered, so that planned operations do not have to be cancelled to make way for emergencies. I can see some problems with that and I know that that concern has also been expressed by some of the professional bodies. For example, there could be training issues for people who see only elective cases and do not see emergency cases. That needs to be thought through and discussed extensively.

Carolyn Leckie: Does Eleanor Scott agree that, although there might be a lot of attractions in that separation, the geographical separation of elective and emergency care is an unproven measure? Does she agree that the proposal is quite worrying in terms of its possible impact on patient care?

Eleanor Scott: That is a valid point, and it comes back to the training issues that I mentioned, particularly for junior staff, who might work in units that either do not deal with emergency cases or do not deal with elective cases.

There is no getting away from the fact that, in some areas, there is a real capacity problem, which the report mentions on page 22. We would be doing the NHS a disservice if we failed to recognise that, in some areas and specialties, there is a real shortage of doctors, nurses and allied health professionals.

I also point out some inconsistencies in the system. We are supposed to be working towards a patient-centred service and we talk all the time about the patient journey. Sometimes, however, we see that journey in relation to only the time that is taken at each stage, not the whole patient experience. Patient choice is emphasised, yet there is a clear thrust towards encouraging patients from all over Scotland to be referred to the Golden Jubilee national hospital. The Audit Scotland report was critical of NHS boards with a low rate of sending patients there, yet those boards tend to be the furthest away from the hospital. Going to the Golden Jubilee hospital might be fine for someone from Glasgow; it is not so great for people from the north whose families cannot visit them.

There is also the issue of which consultant sees the patient. One practice that the report commends as helping to reduce waiting times is to have pooled referrals to a group of clinicians, rather than to one consultant; that is seen as more efficient. However, at the same time, the Executive is publishing league tables of surgeons' death rates.

The Deputy Presiding Officer: You have one minute.

Eleanor Scott: Will a patient who refuses to be treated by a particular surgeon—

Mr Kerr: Will the member take an intervention?

Eleanor Scott: I am sorry, but I am in my last minute. The minister can make his point at the end.

Will a patient who refuses to be treated by a particular surgeon be deemed to have unreasonably refused treatment and lose their waiting time guarantee, at least until next year, or will they be seen to be making reasonable use of the information that the Executive has decided that the public should have? Where is the efficiency in that?

Some of the patient choices are about politicians crossing their fingers and hoping that patients will elect to go where the capacity is, rather than

demand that the capacity be developed or retained in their area.

I support many of the initiatives that are already taking place in the NHS. Many of the moves to deliver care more efficiently, such as increasing the number of procedures that are carried out as day-case treatments, are welcome, but there is a ceiling beyond which, in the search for efficiency, we sacrifice effectiveness.

We must review constantly the overall capacity of our health service and whether it meets the needs of our population. Above all, we must get serious about what is in the end the only meaningful form of demand reduction: a redesign of our communities so that it becomes possible to be healthy in a modern Scotland.

15:56

Des McNulty (Clydebank and Milngavie) (Lab): There was an indication recently that the number of problems with the Holyrood building had come down below 100, so we are clearing up the last few snags. I have to say, however, that the persistent whine that we hear from the SNP benches does not seem to have been reduced in any shape or form. I do not know whether that can be resolved by de-snagging; it seems to be an endemic noise from that area of the chamber.

This is a debate about waiting lists, but we will not address waiting lists unless we achieve fundamental changes in the health service. There is a great deal to be proud of in the national health service, particularly in the west of Scotland. Nanette Milne said that the Conservatives had a programme of hospital building. I acknowledge that, but they did not do much hospital building in the west of Scotland; barely anything was done in greater Glasgow in the 20 years of the most recent Conservative Government. We have had to move forward in Glasgow and terrific things are being done. The new facilities at Stobhill and the Victoria are coming out of the ground. Plans for the Southern general are being implemented and new facilities, such as the new Beatson cancer facility, are coming into place.

I am particularly proud that the flagship is what the Executive is achieving with the Golden Jubilee, which is the national waiting times centre and the cancer centre for the west of Scotland. It is also becoming the centre of excellence for not just cancer care but orthopaedic care and the development of new technologies linked to medicine, such as that produced by AxSys Technology, which has recently been taken forward by the NHS.

There are a number of important strands to what is taking place. The minister and his predecessor have expanded capacity to deliver improvements

in waiting times by taking the Golden Jubilee hospital into the NHS, expanding massively the number of procedures and operations that are being carried out. Part of that process is about streamlining the delivery of care, so that the process of dealing with elective operations is being separated from emergency treatment; not doing that can often mean less efficient ways of working. When people go into the Golden Jubilee hospital, they know what time their operation is going to take place and they can have the strong expectation that there will be no interruption, disruption or delay in the procedure. The streamlining of treatment flows is being combined with improved technological and medical innovation, thanks to the excellence of the staff and the capacity to try out new things and make things better.

In cardiac care, cancer care at the Beatson and orthopaedic care at the Golden Jubilee and elsewhere, we are seeing a transformation: people are not only getting better operations, but getting them more quickly and within a more predictable timescale. I am sorry that Shona Robison has not stayed in the chamber to hear all the good news that is taking place in the NHS.

I will flag up one or two of the issues in the Audit Scotland report. We need to get more health boards to use the terrific facilities at the Golden Jubilee. I have raised that question with the minister in the past. When I go into the Golden Jubilee, I meet patient after patient who tells me what a terrific treatment experience they have had. The last time I was there, I travelled to the hospital by bus with people from Dumfries and Galloway who were going there for cataract operations. They were getting their operations more quickly because the Golden Jubilee is able to progress operations systematically.

The minister will remember the gentleman whom we met on our recent visit to the hospital who had nothing but praise for his treatment. This is the human side of improving waiting lists; behind the statistics lie the human realities that represent significant improvement in the NHS. The minister and the Labour Party, and the Liberal Democrats who are part of the Executive, have a great deal to be proud of in the way that we have taken the issue forward.

16:01

Alex Johnstone (North East Scotland) (Con): This is a relatively low-key debate, which is a pity. In the past, I have participated in some high-level health debates—some have been very rowdy. The rowdiness was based largely on the fact that there were serious problems in our health service.

Today is a big day and I would have liked to have seen more members present for the debate.

Today is the day when we can see the light at the end of the tunnel for the first time. I find it strange to be saying that. Only a few short years ago, we believed that we were in a dire crisis in health terms because waiting lists and waiting times were getting longer. There was no end of ammunition for those on the Opposition benches—including, occasionally, we Conservatives—to use. That happened because we had a health service that had been run since 1997 largely on the basis of political dogma that was being driven by the left. Our health service had money poured into it on the basis of the idea that all the money had to go into a nationalised health system.

Little recognition was given to the fact that much of the primary health care in this country has always been delivered by those who essentially work in the private sector. I refer to the general practitioners and dentists who put their life's work and resources into providing health care that is free at the point of delivery. That is NHS service at its very best. We then suffered a period during which the wrong people got into the ascendancy. Suddenly, health care was all about nationalisation.

I said that we have come to the light at the end of the tunnel today because, in Andy Kerr's opening speech, he said that he believed that health care must be free at the point of delivery—something in which I believe instinctively—but that we should be prepared to accept that it will be provided by whoever can provide it most efficiently, most effectively and, in relation to waiting times, most quickly. I believe that we have seen the end of the political dogma that so dogged the health service in recent years.

Of course, we did not have to wait long to hear that dogma delivered once again. From members on the SNP benches, we heard that the use of the independent sector is somehow second best—we can use it just for now but, in an ideal world, it would not be our choice. We did not have to wait much longer to hear Carolyn Leckie reiterate, with greater vocal clarity than ever, her belief that wholesale nationalisation is the only way the health service can survive in the long term.

Carolyn Leckie: Yes, absolutely.

Alex Johnstone: Well, I think that we have had that experiment, on more than one occasion.

The minister's willingness to be more broad minded is not only a good precursor for the future; it is the reason why the figures are for the first time comparable with those that the Labour Party inherited in 1997.

The truth is that the Government has seen the light. The minister in his opening speech had the air of a condemned man who has suddenly had a reprieve. Compared with his predecessor in the

darkest days, he seemed like a man who is ready for the fight. The Conservatives are prepared to support him if he is willing to accept that the future of health care in Scotland should not be based on political dogma or a nationalised industry and should not be about people owning the means of production—those days are long behind us.

We ought to be proud of the independent health care sector in Scotland and utilise it as effectively as possible. The minister has the levers under his control to ensure that the improvement continues, but we cannot afford backsliding: the dogma must be a thing of the past. We all support the mantra “free at the point of delivery”, but we must be prepared to accept that the nationalisation of health care is a failed practice that has failed Scotland’s people and the Executive. I am glad that change has happened and I look forward to its continuing in the future.

16:06

Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): When we hear an offer of support from the Conservative party, I always detect what I term a Cameron gambit. One must be rather careful with such offers, but I nevertheless respect the spirit in which it was made.

As has been said, the NHS has made significant progress toward meeting the waiting time targets that were set in 2004 and has achieved, a year early, our target to cut waiting times for in-patient and day cases to below six months. Some members predicted that we would not hit the target, but as there is a magnanimous spirit abroad today, I accept the remarks that have been made from members of all parties on that.

The NHS achievements go beyond those on waiting times. The progress that we have made shows that one of the best methods of achieving waiting time reductions is sustained investment in new diagnostic technology and an increase in the number of diagnostic tests that can be carried out. Our national waiting times centre has 100 more beds, a new catheterisation laboratory, a new magnetic resonance imaging suite and state-of-the-art orthopaedic theatres that are the most modern in Britain and the envy of many. The centre has exceeded its activity targets in each year since its establishment and has contributed to the reduction in waiting times that we have witnessed. It is precisely through that kind of creative investment and best use of resources that we are cutting waiting times for Scottish patients.

I turn to the future. The Kerr report made a convincing case that we should make the NHS a service that creates health rather than one that just treats ill health. A simple approach to cutting

waiting times in the NHS is to continue to invest in my party’s policy of health promotion. A long-term approach to health care is necessary if we are to transform Scotland’s health and shed our regrettable image as the sick man of Europe. By improving Scotland’s diet and approach to exercise, we can tackle serious diseases before people get close to hospitals. The recent legislation to ban smoking in public places will make a definitive contribution to Scotland’s health and will undoubtedly have a positive impact on waiting times for lung cancer patients as the numbers who suffer from that deplorable disease fall. The issue is close to my heart—as members know, I speak as the son of a much-loved father who died of lung cancer. The Executive commitment to cut waiting times in the NHS is to be commended, but my party and I believe that the long-term answer is to focus on improving people’s health before they get to hospital. By targeting the roots of disease and reducing the number of people who require acute care, we will free up resources and cap waiting times for those who require treatment.

Although health promotion is a worthy long-term solution to the waiting times conundrum, we will still need sustained investment in diagnostic testing facilities, the training of staff and the creation of more beds in Scotland’s hospitals. The early detection of disease is as important as the length of the wait from detection to treatment.

I shall quote two examples from my constituency. One has to be careful about using details in such matters and must use the most general terms. I have been contacted by a constituent who was concerned about the wait that she has had to endure between visiting her general practitioner upon discovery of a lump and her so-called urgent referral to hospital. She was, I am sad to say, horrified that despite the fact that we are constantly told that early diagnosis and prompt treatment are vital for beating chronic diseases such as breast cancer, she would have to wait six weeks for an appointment with a consultant. I have corresponded with the minister about that and he has explained that there was a vacancy for a consultant breast surgeon at the hospital, which resulted in a longer referral period than normal for urgent cases. Although I thank the minister for that response, the fact remains that I had that case. Another of my constituents contacted me regarding the waiting times for a MRI scan. He was informed last September that he would have to wait more than seven months for an appointment. In fairness, a member of NHS Highland explained to me that the wait was due to a nationwide recruitment problem in respect of radiographers.

I am sure that the minister would agree that those cases highlight the importance of recruiting

and retaining staff in areas such as mine in the Highlands. That is a key factor in the process of cutting waiting times. The NHS needs sustained investment and although we are heading in the right direction, the new targets set by the Executive will be a challenge. It is therefore necessary to respond to the needs and circumstances of the regions of Scotland in their great variety and to deliver cuts to waiting times not just nationally but locally. If the minister cannot respond to the points that I have raised, I would be grateful if he would at least be mindful that, despite the good progress that we are making, we still have the odd blip. Those blips are of the greatest concern to my constituents.

16:11

Rob Gibson (Highlands and Islands) (SNP):

The Scottish National Party believes that patients' rights are at the heart of the process of dealing with waiting times. As we indicate at the end of our amendment, we feel that patients' rights must be taken on board thoroughly and quickly. Our policy proposal to provide every patient with an individual waiting time guarantee, appropriate to them, within national waiting time targets, gets to the heart of the issues that have been raised. It is interesting that Jamie Stone and others have talked about waiting times in diverse parts of the country. We can congratulate ourselves on the general improvement in waiting times, but averages can be skewed enormously by the problems that people have in smaller health boards. It is on that area that I wish to spend a little time.

Key diagnostic tests are increasingly available and, as Euan Robson suggested, an ideal time of no more than about nine weeks is essential for such tests. Jamie Stone raised the case of the gentleman who was waiting for an MRI scan. If such a patient had waited six or seven months, only to be told that he would have to wait another nine months because of a recruitment problem, one has to ask how many places there are in Scotland where recruitment problems are one of the issues that affect waiting times. How many of the smaller boards that have a shortage of consultants and so on are affected by the problem even more than central Scotland is affected? That question bothers me considerably. When we are approached by constituents about such problems, we have to say, "You don't deserve to be treated any worse than people in larger communities." The problems of smaller communities, where there are large distances to travel, must be solved.

As many members have stated, waiting times are affected by the increasing aging population and the need for a good deal wider range of treatments than we have had in the past. However, they are also affected by the way in

which health boards and health services have been reorganised almost every two years. Reorganisation affects staff morale, which affects how waiting times are dealt with.

Let us consider the 2004 figures for staff increases. The biggest increase of all—about 19 per cent since 1999—was in scientific and technical staff. Administrative staff and estate staff increased by 12 per cent, nurses and midwives by 5 per cent and general practitioners by 2.3 per cent. That demonstrates that, because of the way in which the NHS is now organised, there are more organisers than front-line staff. That suggests to me that the structures that we now have are not the best for morale or the best way in which to organise nursing.

The Arbutnott cash settlements for various health boards were said to benefit the areas in most need. It was interesting that, when the First Minister visited the Western Isles last week, he said that there would be a huge increase in money for Western Isles NHS Board, but it turned out to be 6.7 per cent. That is lower than the increase for Highland NHS Board, which was more than 8 per cent—I think that it was 8.9 per cent, in fact. It is strange to me that Arbutnott was unable to deal with the great problems of remoteness in areas in which there are increases in waiting time differentials.

Because this speech is short, I cannot go into more detail. I return to information. What would help us most is to ensure that information on MRI scans, for example, is available throughout the country. Certain health boards in the central belt can provide such information but, when NHS Highland was asked about its MRI scan record, it said that the information was too expensive to collect. That is completely unacceptable in this day and age and I wish that the minister would ensure that the information that we can gather to understand why people are waiting a long time is made much more transparent.

16:16

Mr Duncan McNeil (Greenock and Inverclyde)

(Lab): I congratulate the SNP members who were able to turn up today. The SNP is clinically averse to good news and I think that Shona Robison had to leave and get two large spoonfuls of bad news so that she could come back into the chamber.

The debate from the SNP has been predictable and pathetic. We heard insincere words of congratulation to the national health service, which quickly changed to sloganising about fiddled figures. However, despite all the challenges that we face—such as the SNP's daily diatribes against the national health service, the sensationalising of the reporting of issues in and

around the health service, increase in demand on the service and the expectations of our constituents—some excellent figures on waiting times have been published today. All those who are responsible for them should be congratulated.

The minister made the point that waiting lists were not slashed by accident. That achievement is due, at least in part, to the record investment and modernisation programme that the Executive has delivered and that the SNP and others have opposed tooth and nail. However, there is a limit to what politicians can do. We can invest in the national health service and ensure that structures allow that investment to be put to best use, but results on the ground are delivered only by the determined efforts of national health service staff to provide the sort of service that their patients deserve.

I will pick one example. Mr John Morrice, a consultant surgeon at Inverclyde royal hospital, which is in my constituency, spoke in the Health Committee's public debate "Reshaping the NHS in Scotland?" in April last year, when he described himself as "one of those dinosaurs" who provides a general surgical service. Dinosaur or not, thanks to his efforts and the efforts of those who work with and around him, the waiting times for breast cancer patients at Inverclyde royal hospital are, as he recently pointed out in the local press, the lowest in Scotland, while the waiting times for colorectal cancer patients are the sixth lowest. People in my constituency are alive today because of the Executive's policies. It does not get any bigger than that.

That is not a frivolous point. In an area such as Inverclyde, which still suffers from poor public health, those are substantial achievements. The Executive should be given the credit it deserves and should not be sneered at by Opposition politicians who have never run much more than a bath. The results that were announced today are a testament to effective partnership working between the Executive and health service professionals.

There is no complacency about the challenges that we face in meeting the expectations of those whom we represent. I have been critical. I have pressed ministers and I will continue to press them on waiting times, digital hearing aids and other matters, but today of all days we have an opportunity to come together, unite and celebrate the success of the Scottish health service. Too many members in the chamber missed that opportunity.

16:20

Margo MacDonald (Lothians) (Ind): I pick up from where Duncan McNeil left off. He is right: many more members should have been here

today. I congratulate the minister. He is on top of his brief and I have found him easy to approach. I will say this for him—he does listen. The fact that he cannot always deliver as quickly as I would like is the fault not just of the minister but of a great number of things that I do not have time to go into.

Professor David Kerr's report stated:

"We need a health care system with an emphasis on providing continuous preventative care for people with long term conditions to balance our ability to react quickly and safely to medical emergencies ... Long term conditions require ongoing care ... They are common in the Scottish population, more common in people living in deprived circumstances, more common in older people and, because Scotland's population is ageing, they will become even more prevalent in the future."

Having talked to the minister, I know that work is being done to examine the situation in relation to long-term conditions. For example, work is already being done with people who approached the minister through the Public Petitions Committee, who have a condition that not many people know about—they are post-polio sufferers. I appreciate the fact that the minister took time to pay attention to a condition that has been neglected for a long time. Also, as a number of members said, Audit Scotland is studying the management of people with long-term conditions.

However, for many people who live with chronic conditions, the reduction in waiting times means little. I do not mean to whine; I am just stating a fact. The report from the NHS Scotland long-term conditions action team states:

"Our challenge is to provide the best quality of care within our finite resources for our citizens who may suffer from long term conditions now and in the future."

Obviously, its aim is to keep people as well as possible for as long as possible. It continues:

"Our staff will be well trained in patient centred approaches and will be working in strong multidisciplinary teams that span the current divides between primary and secondary care and health and social care."

Members might note the link between that and my intervention on the member who opened for the Liberal Democrats, when I asked about physiotherapy.

I turn the minister's attention to physiotherapy because it is an example of something that requires more emphasis now that he is getting on top of the surgery waiting times. We can point to any number of individuals who do not receive ongoing care and whose quality of life is much reduced as a result. For them, waiting lists mean little. My experience in Lothian is that, if someone's doctor recommends them for physiotherapy, they get a block of six sessions. Often, that is not enough to cope with their condition, but when they finish the block of six sessions the physiotherapist has no leeway to

decide that they need another one or two treatments. The patient has to go back to their doctor and start again.

Many people who live with chronic conditions have a number of needs that cross several medical disciplines. At present, they have to be referred to each one individually by their GP. That concerns me, particularly in relation to physiotherapy. If we are talking about preventive medicine and about helping people to help themselves, physiotherapy should play a large part in the provision of care. Is the minister aware that, in Scotland, 64 per cent of physiotherapy graduates cannot get posts? That figure is shocking and I do not completely understand it; perhaps it takes us back to the question of finite resources. We also do not compare well with the United Kingdom figure, which is 53 per cent.

I have many examples to give to the minister later—I do not have time just now—to round out that bald figure and to show where paying more attention to physiotherapy and making better provision would help with hospital care and so on. I see that the minister is nodding. As I said, he is very approachable and I am happy to pay tribute to him for that, as long as he promises me that long-term conditions will not fall behind more dramatic illnesses in the priority scale.

16:25

Carolyn Leckie: Margo MacDonald will have to let me in on her secret; Andy Kerr has never been approachable as far as I am concerned. Perhaps she could give me some tips because he always sits with his back to me when I am speaking. Maybe he will look at me this time.

I go back to the issue of independent treatment centres and the separation of elective and emergency care, particularly the geographical separation and the policy that is allegedly being used to expand capacity, improve efficiency and all the other things that is being claimed for it. That is a serious question. The policy that is being promoted is quite dangerous, especially when health boards such as Lanarkshire NHS Board suggest the separation of elective and emergency care but acknowledge that there is no evidence, research or proof that it is safe for patients.

In Lanarkshire—which shared with me the research that has come out of England as a result of the policy—the surgeons opposed the geographical separation of elective and emergency care. They are the very surgeons who will be asked to carry out the procedures without the back-up of an intensive care unit or trauma facilities. Surely the minister should be concerned about that. When he is summing up today, will he tell me why the Executive does not already audit

what happens to patients in those situations, and why it has no plans to do so? The Executive is prepared to promote a policy of privatisation and independent treatment centres but it does not take account of what happens to patients and it has no research to back up the policy. The question is a serious one and I hope that the minister will address it.

It has been demonstrated that the Golden Jubilee hospital has higher costs. It might have increased the turnover of tasks that it conducts, but costs are still higher and the hospital is still under capacity. There is also the anecdotal evidence of medical secretaries—which I trust implicitly because I know many medical secretaries—that patients are being phoned up and encouraged, or some might say put under pressure, to go to the Golden Jubilee hospital when they do not want to, and then find themselves on an availability status code. That is happening, and I will privately give the minister the evidence if he chooses to take it. I find that extremely worrying. It puts policy and propaganda ahead of what is right for patients.

I am concerned about people being bumped on to an availability status code because they did not attend for an appointment. The people who do not attend for appointments are the poorest, the most vulnerable and those who need the treatment. The policy of bumping such people on to availability status codes perpetuates inequalities.

The minister asked SNP members whether they think it appropriate for people who do not attend for appointments to be put on an availability status code. I do not think that it is appropriate because those are the very people whom we should ensure get the treatment they need when they need it. If they cannot attend for appointments, we should be asking why and giving them the ability to attend.

Helen Eadie: The member said that people do not attend for their appointments because they are poor and cannot afford to get there. Right across Scotland there is a system of volunteer drivers who take people to hospital if they have difficulties. Why are people not going to appointments when they can be driven to the hospital for free?

Carolyn Leckie: That is because there are complex social problems. Volunteer drivers are not the solution to poverty. I would have hoped that a member of the Labour Party would have known that.

Where is the choice in what is happening at the Golden Jubilee national hospital? Propaganda and right-wing ideology are being put ahead of patients' interests.

Although he is not in the chamber, I suggest that Jamie Stone does not use medical terminology in his speeches as he cannot quite spit it out. He

claimed that his party's policy was health promotion. That must be news to the thousands of health workers who have been involved in health promotion for years. "Lib Dems claim ownership of health promotion"—that stretches the bounds of imagination. It is even more brazen than their claims about council tax and road tolls. How much longer will Labour Party members put up with this from their coalition partners? The Lib Dems have some cheek.

Eleanor Scott's speech was helpful and considered, shedding more light on the debate than any of the other speeches. Alex Johnstone claimed that the Executive's announcements and policies were all about claiming that there is light at the end of the tunnel. There is nothing like a Tory when the Executive is desperately trying to pretend that it is not as in thrall to the private sector as Blair and Patricia Hewitt or that it bears a resemblance to the Labour Party of Bevan. It is great to have a Tory to confirm the socialist analysis of the right-wing trajectory of the Labour Party's health policy. The biggest problem for the Tories in Scotland is that the Labour Party has stolen all their clothes.

Will the SNP explain what it means by choice in its amendment—private or public? Until I know, I will not be able to decide on it.

16:32

Euan Robson: This has been an interesting but low-key debate, as Alex Johnstone said. Even Opposition members have conceded that there have been significant improvements in waiting times, which is welcome. As Helen Eadie said, it is a proud day—perhaps these are proud times—and the improvement is a notable achievement. I reiterate the thanks that have been paid to the NHS staff for that.

In the previous session of Parliament, my party suggested that the emphasis should change from waiting lists to waiting times. It was important to make that change and it was a necessary precursor to the concentration on waiting times that is now delivering service improvements to patients.

I say in passing to Eleanor Scott, who is not here, that she must remember that waiting lists are a result of ill health and that the Executive is addressing that through health promotion policies. In response to Carolyn Leckie, of course NHS staff have for years promoted better health—the concept of the health visitor has been with us for many years—but it is important that the Government backs those efforts and emphasises health promotion. Jamie Stone emphasised health promotion policies that have attracted all-party support, such as the smoking ban—although the

Conservatives were more reluctant than the rest of us in that case.

As I said in my opening speech, we welcome the primed direction in health policy for this and next year. The abolition of ASCs is important. The only difference between the parties is the matter of timing. Some members made comments about hidden waiting lists, but it is hard to understand how ASCs can be hidden when there is so much open discussion about them. Paragraph 42 of Audit Scotland's report on waiting times makes it clear that although there was an increase in the number of ASCs, the proportions have remained the same. It continues:

"For example, since December 2003, the proportion of patients assigned an ASC for medical reasons has remained at about one quarter and the proportion of patients who delayed admission for personal reasons or refused an offer of treatment remained at just over one half."

The position on ASCs is clear and is not being hidden in any way, shape or form. However, it is important to say that they are to be abolished in the near future.

Rob Gibson made some important points about the difficulties of delivering health services in rural areas, some of which I recognised from my constituency experience. Of course, behind any general assessment of the position across Scotland there will be exceptions that need to be dealt with. I believe that there are opportunities for better use of facilities, board by board, across the country. For example, I know that there is a possibility of increased use of maternity services at Borders general hospital by people from the southern end of the Lothian NHS Board area. As the minister is prompting me to say, better regional planning will help to deliver important changes that will improve the situation further.

Apart from some glancing references by Margo MacDonald, the question of workforce development has been missing from the debate. We need not only to ensure that there is a supply of skilled people in the future, but to do so in the face of an aging population and a smaller proportion of people in work. Investment in training and a broader career structure, probably across disciplines and in allied services and professions such as social care, will therefore be necessary. That will attract more people into the health service and will encourage them to develop their careers in parallel with other professions and disciplines. It is important that we do that; if we fail to address issues of workforce development as we go forward, we will undermine the progress that is undoubtedly being made on waiting times.

Waiting times are improving progressively and we look forward to the further improvements that are scheduled for 2007. Liberal Democrat

members are confident that those will be delivered.

16:38

Mary Scanlon (Highlands and Islands) (Con):

It is not fair to say that MSPs from all parties that are represented in the Parliament are not interested in health simply because they are not here. I imagine that many of them are following the debate intently on their monitors.

The Scottish Conservatives fully applaud the dedication and hard work throughout the NHS in treating more patients in the past 12 months. Many interpretations of selected figures for waiting times have been provided this afternoon, but I would like to quote from the Audit Scotland report, which states:

"The total number of people waiting for inpatient and day case treatment has changed little in the last two years. The number of people without waiting time guarantees has increased and most of these patients have been waiting over six months."

The report goes on to say that the number of patients who are without a guarantee has increased by 6,699 since June 2003, that just over two thirds of those patients have been waiting for more than six months and that 80 per cent have been waiting for more than 18 weeks. It adds that the NHS could get better value from resources that have been invested in tackling waiting times by making greater use of the Golden Jubilee national hospital, which was previously named the Health Care International hospital and—I say for Des McNulty—was built under the Tories to a standard to match that of the Mayo clinic in New York. I commend Des McNulty for his comments, because there is no doubt that the hospital is of great benefit to patients throughout Scotland.

More than 50 per cent of patients who were surveyed for the Audit Scotland report said that they would be willing to go to the Golden Jubilee, but fewer than 5 per cent were offered treatment, as I mentioned to the minister earlier. The minister said that he wanted to empower patients; we fully agree with that, but I say to the minister that instead of his having cosy chats with health board chiefs each month, more action needs to be taken on patient choice. If the minister is looking for a new target, he would do well to consider increasing the percentage of patients who are offered that choice.

I highlight to the minister the many patients whose care and treatment is not included in the waiting times statistics. I give the example of infertility treatment. In Scotland—in Grampian in particular—a person can wait up to four years for treatment. With a cut-off age of 38, many women are age-barred from that treatment while they are on the waiting list. I commend the Executive on its

consultation on infertility treatment and care, which closed on 8 December 2005 and I hope that the ministers are positively considering the inclusion of infertility treatment in the waiting times directive. Although infertility is not a life-threatening condition, I am sure that members agree that the wait or the lack of treatment has a serious effect on relationships and individuals.

Stewart Stevenson: A parliamentary answer that was given to me in the past eight weeks said that the waiting time for infertility treatment is six years, not four.

Mary Scanlon: That is quite incredible because I am the convener of the cross-party group on fertility services and Mark Hamilton is a member of the group. That is a serious issue and I thank the member for bringing it to my attention.

I acknowledge Euan Robson's comment that compared the NHS to the private sector. It was an unusually professional and mature comment from a party that is better known for being critical of the independent sector, so I fully welcome the member's comment.

As Nanette Milne said, some progress has been made because the national figures on waiting times look very good.

Jamie Stone and Rob Gibson spoke about the drastic increase in waiting times when a consultant or key member of staff is off sick, and the time that is taken to fill vacancies. That is a serious issue in many smaller hospitals, particularly in rural areas, and can, as Jamie Stone said, lead to much longer waiting lists, albeit in the short term.

Although Rob Gibson mentioned the finances of the Western Isles NHS Board, I remind him that it is paid significantly higher amounts per person than is the case for Orkney and the Shetland Islands or Argyll and Bute, with its 25 islands.

Although today's debate is welcome, the real challenges in the future are to make quick diagnoses and to provide greater advice and support for self-managed conditions such as asthma and diabetes. More should and could be done in primary care in respect of there being greater emphasis on diabetes, given the predictions on incidence of diabetes.

As regards mental health, too many patients go to the doctor with mild or moderate depression, but whose wait to see a psychiatrist or psychologist often means that their condition is acute by the time they see a professional. I take this opportunity to commend the self-help group Depression Alliance, which supports people throughout Scotland. I say to Carolyn Leckie that that voluntary organisation is exceptional—it allows people to continue in employment while they gain greater understanding of their condition.

I support the Conservative amendment.

16:44

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

I welcome the achievements so far, which have been made possible through a great deal of effort by NHS staff; the minister mentioned a long list of those staff at the beginning of his speech. It would be churlish not to congratulate those staff and the Government on ensuring that it has priorities that we all share in this area. It is important that we achieve shorter waiting times for patients throughout Scotland, so I congratulate the Government on the work that has been done thus far.

On the point that Duncan McNeil made about people whining—I think that is the word he used—I must say that it is right and proper that the Opposition congratulate the people concerned when it is appropriate to do so but that it should also, as Audit Scotland did in its report, point out that, in relation to certain areas, there is a road still to travel to deal with problems and outstanding issues. It is quite right that we have done that. Duncan McNeil's attempt to castigate us for whining—his phrase—is nonsense. We expect nothing better of him, however. *[Interruption.]*

Mr McNeil: Turn your mobile off.

Mr Maxwell: I have no mobile phone.

Earlier, the minister mentioned that it would be better, quicker and safer to use private providers. That is rather a serious charge and I hope that he will come back to it in his summing-up speech or now—I am happy to accept an intervention on the point. It might be quicker to use private providers, but I do not believe that it is better or safer, which is a serious charge to make against our NHS.

On so-called hidden waiting lists, yes—they are posted on a website. I am not sure that, as Euan Robson said, we would all talk about them if it were not for the fact that Opposition members raise the issue. I am sure that the Executive would not be so keen to talk about them if it was not for the fact that we had mentioned them in the first place. I do not recall a press release about waiting lists for people who do not have guarantees. Perhaps there have been some press releases about the people on those hidden waiting lists, but I do not recall them.

Euan Robson also claimed that the maximum capacity at the Golden Jubilee national hospital is being used, but the Audit Scotland report says something quite different. It says that more procedures were carried out than were allocated but that, in cardiac surgery, the number of procedures that were carried out was 21 per cent less than the available capacity, in cardiology it was 16 per cent less and in orthopaedic joint surgery it was 13 per cent less. I am not quite sure what Euan Robson was trying to say, but I do not

think that the full capacity of the Golden Jubilee is being used. It is dealing with more than its original allocated number of procedures, but capacity is far from being used.

Helen Eadie, who has unfortunately left the chamber, talked about huge increases in activity. That is rather odd, given that the total number of people waiting for inpatient and day-case treatment has changed little in the past two years. I mentioned that earlier in an intervention. Eleanor Scott also mentioned it, as did Audit Scotland's report. Helen Eadie said that extra people were waiting because many new treatments had come on board—the example that she used was hip replacements. I have to point out to Helen Eadie that hip replacements have been around a lot longer than two years and that, therefore, that was rather a strange example to use.

The reason for raising that point is that, although we welcome the extra investment to deliver lower figures, it has not reduced the overall number of people who are waiting. That must be a concern for the Government as well as for others. If we are not reducing the overall number of people who are waiting, we cannot continue to pump in more and more resources. As we know, all resources are finite. Stewart Stevenson's analogy about making a huge effort to move a short distance forward only to fall back again was good.

Alex Johnstone's speech was interesting, but I am not sure what planet he is on. I do not know in which country the left-wing has had supremacy in terms of health care ideology since 1997, which Alex Johnstone suggested is the case, but I do not think that it was this country. I am sure that Tony Blair might find that rather offensive to himself and his politics.

Jamie Stone, who is also not here, unfortunately, made an interesting point. He said that, although it is important to improve treatment, it is more important to improve health. That is a fundamental point to keep in mind in all of our health debates. The idea of health inequalities is critical. Although the healthy life expectancy in many of our communities is good, in many other parts of our country, it is low—indeed, in some places, it is among the lowest in Europe. That is an extremely important point, although I do not think that the Liberal Democrats thought of it first. I know that Liberal Democrats like to claim the credit for everything, but many of us have been keen to talk about health inequalities, improving health in general and the importance of public health in the area of health improvement.

Duncan McNeil has been barracking from the back of the chamber, as usual. During his speech—when he was supposed to speak—he made a rather bizarre point when he implied that the SNP is not interested in health because our

benches were empty. His point would have been better made had there been anyone sitting on the Labour benches around him, but unfortunately the only thing near him was the tumbleweed rushing through the empty seats around him.

Duncan McNeil made a rather more interesting point on cancer care, which Nanette Milne also mentioned, when he gave figures for breast cancer and colorectal cancer waiting times in Inverclyde. We congratulate the staff in that area on their excellent work in ensuring that waiting times are so low—that is fantastic. Unfortunately the figures for colorectal cancer waiting times throughout the country are nowhere near as good as the figures to which Duncan McNeil referred. Just over 50 per cent—

Mr McNeil: Moan, moan, moan.

Mr Maxwell: Duncan McNeil does not like it when we point out that it is a fact that the target is being met for only just over 50 per cent of people. The member does not like the facts to come out because the truth spoils his attempts to create a good-news story. We have heard good news today, but we must keep it in proportion and talk about the context—[*Interruption.*]

The Deputy Presiding Officer: Order.

Mr Maxwell: Carolyn Leckie asked a question about patient choice, which I want to answer before I run out of time.

The Deputy Presiding Officer: You have run out of time.

Mr Maxwell: If a patient has to wait three months in one health board area, but in the neighbouring area the wait is only two months, why cannot the patient be treated in the neighbouring area? That is patient choice.

In conclusion—

The Deputy Presiding Officer: Please conclude now.

Mr Maxwell: The SNP amendment is worthy of support and I hope that members will support it.

16:51

Mr Kerr: I begin with the consensual and inclusive approach that I usually bring to debates, by acknowledging the remarks that every member who has spoken from every party has made in acknowledging the performance of our health service and thanking NHS staff.

I want to respond to some of the many issues that have been raised, although I will not be able to cover everything. First, patients want and expect better, safer and quicker access to health care whether it is provided by the private sector, the voluntary sector, the not-for-profit sector or the NHS. That is what we must deliver for patients.

A number of MSPs noted that the Audit Scotland report, “Tackling waiting times in the NHS in Scotland”, comments that waiting lists have “changed little”. The comment refers to older data; today’s figures show that in-patient waiting lists are down by nine per cent and, as Euan Robson said, that out-patient waiting lists are down this year by a staggering 26 per cent—some 60,000 patients have come off the out-patient waiting list.

Stewart Maxwell mentioned the Golden Jubilee national hospital’s performance. The purpose of that hospital is to allow us the flexibility that we need to carry out the treatment that patients need. Mr Maxwell quoted figures for orthopaedics and other specialties, but there has been an increase in general surgery. The Audit Scotland document also reports that the GJNH carried out 120 per cent of the ophthalmology procedures that were expected. The hospital allows us the flexibility to meet the patient targets that we set.

Mr Maxwell rose—

Mr Kerr: On a more substantive point, we need to examine closely the SNP’s press release, which refers to

“The fact that almost 40,000 Scots waited more than six months in the year to December 31st 2005 for treatment”.

However, at 31 December 2005 only two patients were waiting. Those are the facts, which demonstrate the success of the NHS and that we are delivering what we promised to deliver. Members should remain focused on how we use the numbers, because it is important to recognise the achievements of the NHS and the people who work in the service.

Stewart Stevenson mentioned dental patients. The data that we are discussing indicate that waits of more than 26 weeks for hospital treatment for dental patients were reduced from 5,031 in December 2004 to zero in December 2005.

On productivity and activity in the health service, angiography is up a staggering 12 per cent, angioplasty is up 107 per cent and cataract operations, hip replacements and knee replacements have increased by margins of 20 per cent, 9 per cent and 44 per cent respectively. The NHS is clearly working hard, building capacity and using it on behalf of patients, because that is what patients deserve and, of course, want.

Of course, we are using the health service differently now. For example, the number of day-case operations and out-patient procedures has increased to the benefit of the patients who require such services.

On a point that was made by Carolyn Leckie, clinical governance arrangements with the private sector, the not-for-profit sector and the independent sector are set by NHS Quality

Improvement Scotland to ensure that patients get the services that they desire.

During the debate, someone referred to an article that compared the performance of the NHS in Scotland with that in the rest of the UK. I have to say that I have not read that article, but I make it clear that I, and Parliament, will decide what is best for Scottish patients. We are targeting the three big killers—coronary heart disease, stroke and cancer—and our health service is making a real difference for the patients who suffer from those conditions. Because people are living longer, families are staying together longer. That is the purpose of the NHS in Scotland.

We need only consider some of the statistics. For example, the in-patient and day-case waiting list in Scotland is shorter per head of population than it is in England. Moreover, the number of patients who are waiting six months is lower in Scotland than it is in England. We must take those statistics as they are. We reflect the health policies that Scotland needs and, with the support of the Executive and Parliament, we will deliver the health service the way we want it to be delivered.

The Golden Jubilee national hospital has been mentioned many times. It is not underutilised; since it became part of NHS Scotland it has exceeded its targets year after year. As for the claim that the costs per case at the Golden Jubilee are higher than those at other hospitals, Euan Robson and other members made it clear that, for example, the Golden Jubilee has no emergency admissions and deals with a higher proportion of complex and high-cost procedures, such as hip and knee replacements. Moreover, when we establish the Scottish cardiothoracic centre at the Golden Jubilee, we will be able to bring down overheads and use the facility more effectively for the people of Scotland. With its state-of-the-art operating theatres, the hospital is an excellent facility that is flexible, works really well and provides for patients in our NHS. I advise members to stop having a go at it.

Stewart Stevenson raised e-health. I know that he is interested in that matter, but I do not have the time to go into it at the moment. However, I will be very happy to sit down and give him an insight into the effective policies that we are developing in that respect.

I say to the Green party that we are taking a whole-systems approach in Scotland. For example, the Scottish primary care collaborative is helping to make huge improvements in patient delivery and in working with patients to ensure that we tackle not only long waiting times but issues such as localisation of care and the provision of care as close to home as possible.

Alex Johnstone was right—I, too, wish that more members had been present for the debate. After

all, this is a big day for the NHS in Scotland. I was disappointed to find that, on such a significant day for our health service, our own public service broadcaster, the BBC, was not present at the quarterly press conference that I hold. I suppose that, on some occasions, good news is no news.

I would like the Conservative party to clarify its position. In its 2005 manifesto, it said:

“We believe that making a contribution based on the cost of half the equivalent NHS operation both recognises the tax”

that people

“have paid towards the NHS”

and will further reduce waiting times.

However, the leader of the Conservatives has said that

“the right have spent too much time trying to get people out of the NHS and into the private sector. ... Margaret Thatcher's support for giving tax relief on private medical insurance, and our Patients Passport policy at the last election, were examples of”

that. Such an approach is flawed. I am not sure where the Scottish Tories sit, so I would like them to clarify their position in due course.

Jamie Stone raised the key issue of diagnostics. We have set out a clear pathway for delivering on diagnostic wait times. For example, we are making £50 million of resources available and are addressing the training and skills agenda. Again, we are making effective use of the whole-systems approach.

Many members highlighted health improvement. I remind Parliament that the Executive—this Government—is at the cutting edge of world health-improvement strategies. The World Health Organisation and other organisations throughout the world are coming to see what Scotland is doing. Our hungry for success programme, our work in hard-pressed communities, our initiatives on diet and exercise and our mental health strategies are the envy of the world, and I am very pleased that others are learning from our approach to health improvement.

Rob Gibson had a go at people whom he described as being more organisers than service providers. However, Stewart Stevenson then said that we need more information technology and e-health strategies. None of that adds up. We must support the NHS in many different ways. Of course, the e-health strategy and other aspects such as the patient records service do not rely exclusively on doctors and nurses; they also rely on skilled IT professionals. Moreover, as we invest resources in equipment for the NHS, we must remember that that equipment needs to be maintained, supported, installed and so on. All that work requires a labour force.

Rob Gibson also talked about bureaucracy and proposed his party's policy. There is the concept of an individual waiting time guarantee for each patient, which sounds very bureaucratic to me—indeed, it sounds more bureaucratic than any system that operates under the Executive. I am not sure that the patients' rights proposal would deliver any benefits, but it would certainly add to the bureaucratic burden on the NHS.

Margo MacDonald made salient points about chronic conditions. The Long-term Medical Conditions Alliance is working on those matters.

Carolyn Leckie did not provide any evidence to support any of her arguments. I point out to Mary Scanlon that we are working with patients and patient groups to ensure that they are involved in the development of the health service in Scotland.

I briefly return to where I began. This is a very good day for the NHS in Scotland. There has been the best performance ever recorded for in-patient, day-case and out-patient waiting. There are the lowest in-patient, day-case and out-patient waiting lists for many years. Well done to the NHS and to the staff who work in it.

Parliamentary Bureau Motions

17:01

The Presiding Officer (Mr George Reid): The next item of business is consideration of two Parliamentary Bureau motions. I ask Margaret Curran to move motion S2M-3995, on substitution on a committee, and motion S2M-4000, on membership of a committee.

Motions moved,

That the Parliament agrees that Mr Andrew Welsh be appointed to replace Michael Matheson as the Scottish National Party substitute on the Education Committee.

That the Parliament agrees that Mr Jamie Stone be appointed to replace Mike Pringle on the Subordinate Legislation Committee.—[*Ms Margaret Curran.*]

The Presiding Officer: The question on the motions will be put at decision time.

Decision Time

17:01

The Presiding Officer (Mr George Reid):

There are seven questions to be put as a result of today's business. The first question is, that motion S2M-3894, in the name of Ross Finnie, on the general principles of the Animal Health and Welfare (Scotland) Bill, be agreed to.

Motion agreed to.

That the Parliament agrees to the general principles of the Animal Health and Welfare (Scotland) Bill.

The Presiding Officer: The second question is, that amendment S2M-3990.3, in the name of Shona Robison, which seeks to amend motion S2M-3990, in the name of Andy Kerr, on "Fair to All, Personal to Each" and the progress on waiting, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Canavan, Dennis (Falkirk West) (Ind)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Lochhead, Richard (North East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 Morgan, Alasdair (South of Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brown, Robert (Glasgow) (LD)
 Brownlee, Derek (South of Scotland) (Con)

Butler, Bill (Glasgow Anniesland) (Lab)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Frances (West of Scotland) (SSP)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Davidson, Mr David (North East Scotland) (Con)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Johnstone, Alex (North East Scotland) (Con)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Leckie, Carolyn (Central Scotland) (SSP)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McGregor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)
 Sheridan, Tommy (Glasgow) (SSP)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Tosh, Murray (West of Scotland) (Con)
 Wallace, Mr Jim (Orkney) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Presiding Officer: The result of the division is: For 30, Against 80, Abstentions 0.

Amendment disagreed to.

The Presiding Officer: The third question is, that amendment S2M-3990.1, in the name of Nanette Milne, which seeks to amend motion S2M-3990, in the name of Andy Kerr, on “Fair to All, Personal to Each” and the progress on waiting, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Aitken, Bill (Glasgow) (Con)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brownlee, Derek (South of Scotland) (Con)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Johnstone, Alex (North East Scotland) (Con)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Tosh, Murray (West of Scotland) (Con)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baird, Shiona (North East Scotland) (Green)
 Baker, Richard (North East Scotland) (Lab)
 Ballance, Chris (South of Scotland) (Green)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Fox, Colin (Lothians) (SSP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Hyslop, Fiona (Lothians) (SNP)

Ingram, Mr Adam (South of Scotland) (SNP)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Leckie, Carolyn (Central Scotland) (SSP)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (North East Scotland) (SNP)
 Lyon, George (Argyll and Bute) (LD)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morgan, Alasdair (South of Scotland) (SNP)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robison, Shona (Dundee East) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Sheridan, Tommy (Glasgow) (SSP)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Wallace, Mr Jim (Orkney) (LD)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Presiding Officer: The result of the division is: For 15, Against 95, Abstentions 0.

Amendment disagreed to.

The Presiding Officer: The fourth question is, that amendment S2M-3990.2, in the name of Carolyn Leckie, which seeks to amend motion S2M-3990, in the name of Andy Kerr, on “Fair to All, Personal to Each” and the progress on waiting, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Curran, Frances (West of Scotland) (SSP)
 Fox, Colin (Lothians) (SSP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Leckie, Carolyn (Central Scotland) (SSP)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Sheridan, Tommy (Glasgow) (SSP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brown, Robert (Glasgow) (LD)
 Brownlee, Derek (South of Scotland) (Con)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Davidson, Mr David (North East Scotland) (Con)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marilyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Henry, Hugh (Paisley South) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Johnstone, Alex (North East Scotland) (Con)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (North East Scotland) (SNP)
 Lyon, George (Argyll and Bute) (LD)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)

Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Morgan, Alasdair (South of Scotland) (SNP)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robison, Shona (Dundee East) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Tosh, Murray (West of Scotland) (Con)
 Wallace, Mr Jim (Orkney) (LD)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Wilson, Allan (Cunninghame North) (Lab)

The Presiding Officer: The result of the division is: For 13, Against 97, Abstentions 0.

Amendment disagreed to.

The Presiding Officer: The fifth question is, that motion S2M-3990, in the name of Andy Kerr, on "Fair to All, Personal to Each" and the progress on waiting, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Canavan, Dennis (Falkirk West) (Ind)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)

Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Wallace, Mr Jim (Orkney) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brownlee, Derek (South of Scotland) (Con)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fabiani, Linda (Central Scotland) (SNP)
 Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Goldie, Miss Annabel (West of Scotland) (Con)

Grahame, Christine (South of Scotland) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 McGregor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Morgan, Alasdair (South of Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Sheridan, Tommy (Glasgow) (SSP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Tosh, Murray (West of Scotland) (Con)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

ABSTENTIONS

Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)

The Presiding Officer: The result of the division is: For 62, Against 41, Abstentions 6.

Motion agreed to.

That the Parliament welcomes the significant progress made by NHS Scotland to reduce waiting times; applauds the dedication and hard work of all NHS staff who have helped meet the targets for patients; acknowledges the contribution made by the Scottish Executive through additional investment in the NHS; notes that partnerships with the independent healthcare sector have also contributed to the capacity available to treat NHS patients; supports the continuing work by the NHS to modernise and redesign services to further improve access and accelerate diagnosis and treatment, and supports the Executive's commitment to achieve further improvements in waiting times while securing a modern sustainable health service for Scotland on the basis of *Delivering for Health*.

The Presiding Officer: The sixth question is, that motion S2M-3995, in the name of Margaret Curran, on substitution on a committee, be agreed to.

Motion agreed to.

That the Parliament agrees that Mr Andrew Welsh be appointed to replace Michael Matheson as the Scottish National Party substitute on the Education Committee.

The Presiding Officer: The seventh and last question is, that motion S2M-4000, in the name of Margaret Curran, on membership of a committee, be agreed to.

Motion agreed to.

That the Parliament agrees that Mr Jamie Stone be appointed to replace Mike Pringle on the Subordinate Legislation Committee.

Air Ambulance Trials (Orkney)

The Deputy Presiding Officer (Trish Godman): The final item of business today is a members' business debate on motion S2M-3877, in the name of Jim Wallace, on air ambulance trials in Orkney. The debate will be concluded without any question being put.

Motion debated,

That the Parliament notes the proposal of the Scottish Ambulance Service to replace the Kirkwall-based BN Islander aircraft, successfully used for many years to provide air ambulance cover for Orkney, with an Inverness-based EC 135 helicopter which also covers a much wider area of the Highlands and Islands and beyond; further notes that trials of the helicopter on service in Orkney, carried out since spring 2005, have done little to provide assurances that it can provide even an equal level of service to that provided by the Islander aircraft, with particular concerns relating to its ability to fly in Orkney's winter weather and also its ability to provide adequate cover for the wide area it will be required to serve, and believes that, if the Kirkwall-based Islander aircraft is not retained as a back-up facility beyond the end of March 2006, Orkney will be left with poorer quality and potentially unsafe air ambulance cover.

17:08

Mr Jim Wallace (Orkney) (LD): I welcome the opportunity to debate the issue—which is important to my constituents—of the air ambulance trials in Orkney. I thank colleagues from all parties for staying to take part in the debate and, I hope, to support the case that I am making.

It is worth making clear at the outset that the outcome that I am seeking for Orkney is the retention of the Kirkwall-based Islander as a back-up to the EC135 helicopter. Andy Kerr's starting point, when we first discussed the issue last year, was that the service should be better, but the Scottish Ambulance Service and the minister need to recognise that the helicopter has shortcomings in some areas when compared with the Islander aircraft, so that helicopter-only cover—which is what the SAS proposes—would leave the islands without air ambulance cover when the helicopter could not fly but the Islander could.

The aim must be to provide an ambulance service that allows patients who are in need of medical attention—whether or not it is a life-or-death emergency—to be taken to the appropriate hospital with the minimum delay. That means having an ambulance service that is designed to cope as well as possible with the weather conditions in Orkney, day and night, summer and winter. The helicopter alone cannot provide that service.

Andy Kerr has confirmed to me that the helicopter is not cleared to fly in icing conditions,

although the Islander can fly in icing conditions. That means that the helicopter will have to fly below the clouds when there are icing conditions. According to met office statistics, Kirkwall is 10 times more likely than Inverness to have a cloud base below 1,000ft. Combine that low cloud base with normal winter weather, and icing becomes a very real issue. Those with experience of flying in Orkney year in, year out believe that there will be a significant number of days when the helicopter will not be able to fly, but when the Islander could fly.

Whereas the pilot of the Kirkwall-based Islander can make his own judgments on whether it is safe to fly when air traffic control at Kirkwall is not available to provide weather information, an Inverness-based pilot would have to face a delay while the ATC staff at Kirkwall were called out. Furthermore, an Inverness-based pilot is not best placed to take advantage of the short weather windows that a Kirkwall-based pilot, with their experience of local conditions, could use.

There are real concerns that the single Inverness-based helicopter, which has to cover more than half of Scotland as well as Orkney, will be overstretched. In December last year, there were three night missions to the north isles of Orkney that the helicopter was unable to undertake. Two were covered by the Islander, the other was covered by the coastguard helicopter. It is not clear whether the helicopter was unavailable because of work elsewhere or whether the problem was to do with the weather. Whichever it was, in the space of one month, there were three times when the helicopter was not available.

The helicopter has limitations as to range. It cannot fly from Inverness to the north isles of Orkney and on to Aberdeen without refuelling at least once. That delays the transfer of a patient to hospital and makes the helicopter dependent on weather conditions at an intermediate stop. I am told that on one occasion it refuelled in Kirkwall with the patient still on board, sitting in freezing air as the door was left wide open. The Islander, on the other hand, can fly from Kirkwall to the north isles and then south to Aberdeen without the need for refuelling stops. The helicopter cannot, at present, take a pregnant woman who has gone into labour, and there is not the same space in the helicopter as there is in the Islander for family members to accompany children or elderly people.

No doubt the minister will try to claim that the helicopter has met its performance targets, but most of the flights it has undertaken have been deemed so-called planned flights, not emergencies. Planned flights do not have to meet the same performance targets as emergencies. Orkney patients in need of hospital treatment have increasingly to wait because the air desk often

asks doctors to delay an evacuation if it is not a life-or-death situation. Patients might not die as a result, but one general practitioner from the isles told me:

"I was questioned closely regarding the urgency, presumably so it could be so classified. This led to concerns as, though conditions may not have been life threatening, two extended waits caused considerable prolonged discomfort for patients and distress for relatives."

By "waits", we are talking about hours, not minutes. A nurse, reporting a long wait for the arrival of the helicopter on one of the north isles, said that she had to phone air ambulance control three to five times to get an estimated time of arrival. She said:

"I also phoned for an air ambulance at 11 pm for immediate dispatch and was asked, 'Could it not wait until the morning?'"

The high incidence of the helicopter's flights being given planned status rather than emergency status means that the helicopter has not been properly tested in the trials against the emergency criteria.

This is primarily an issue on which I am arguing on behalf of my Orkney constituents, but a Kirkwall-based Islander can benefit other areas, too. Given the weather restrictions on the helicopter, there will be times when the Islander will be able to assist elsewhere. For example, on 11 February this year, it was called to take a patient from Stornoway to Inverness in conditions of low cloud with icing at altitude. Flights from Kirkwall to hospitals in the south are generally undertaken by the King Air, but there are times when the crosswinds on the main runway at Kirkwall will not allow the King Air to land, although an Islander back-up aircraft could use the shorter cross runway to take off and take a seriously ill patient south.

I will end by outlining the reports that I have received from those with direct experience of the helicopter: north isles GPs and nurses who have worked with the helicopter during the trial. Before I do so, I point out that the minister said that the Scottish Ambulance Service would not be contacting those GPs and nurses directly, so I undertook my own survey.

Christine Grahame (South of Scotland) (SNP): Will the member take an intervention?

Mr Wallace: No, I want to get on.

So far, five GPs and four nurses have responded. Together, they have experience of about 50 helicopter missions. When they were asked whether they were concerned about the prospect of the loss of the Islander, all but one said yes.

I have focused on the logistical and health-related reasons for retaining the Islander as a back-up. I believe that those reasons are strong enough in their own right. Time does not permit me to develop the point about the significant knock-on cost to Orkney Islands Council for its inter-isles air service as a result of the loss of the Islander performing air ambulance services—so much for joined-up and efficient government.

I ask the minister to listen to the following messages from the medical staff on the front line in Orkney's north isles. One GP said of the Islander:

"Without exception the arrangements went very smoothly—one phone call and a very quick response time."

However, he went on to say:

"Unfortunately the same cannot be said for the helicopter. I have had a number of difficulties arranging patient transfer, these include slow response times."

Another GP said:

"I am very concerned about losing the Islander air ambulance. From the islands we need a means of transport, not a mobile intensive care unit."

That was backed up by another GP who said:

"The principal need is for speed of transit to Kirkwall ... I am most concerned over potential delays through availability, distance and weather conditions. We have been much better served by local pilots using the familiar and proven Islanders."

The case might well be made that the helicopter is fitted out, modern, state-of-the-art technology, but, as one constituent said to me, it can be as fitted out and state-of-the-art as we like, but if it cannot get here, it is not much use.

The new contracted service is a step back, not forward. It fails the test of being a "better service". I ask the minister and the Scottish Ambulance Service to think again.

17:16

Mr Alasdair Morrison (Western Isles) (Lab): I warmly congratulate my friend and colleague Jim Wallace on securing the debate and demonstrating, as a constituency MSP raising legitimate issues in this forum, the importance of the members' business slot. The parallels between the concerns articulated by the constituents of Orkney and the constituents of the Western Isles will become all too apparent in the next few minutes.

The constituency that I represent owes a great debt to those who man the air ambulance service. Every year, about 400 of my constituents have first-hand experience of that vital service. We are grateful not only to the air ambulance service but to the coastguard helicopter for its timely and often courageous interventions in saving life and limb.

It is precisely because the service is life saving that my constituents, particularly those on the island of Barra, are concerned about the prospect of the new service and the consequences of its beginning this April. The new aircraft, the King Air, cannot land on the beach airstrip, so the island will be reliant on a rescue helicopter—the Eurocopter EC135. As recently as Monday of this week, islanders reminded me of the widespread concern on Barra about that prospect.

A number of fundamental questions have to be answered to restore my constituents' confidence in the impending service. First, can the new helicopter accommodate an escort travelling with a patient? That is a particular concern of parents, who dread being unable to accompany an injured or grievously sick child, but it also applies to the elderly, patients with learning difficulties and those with life-threatening injuries. Who will make the vital decisions in mainland hospitals in Glasgow and elsewhere if the relatives have not accompanied the patient on the journey?

Jim Wallace asked whether the helicopter could fly in icy conditions. There is a concern that the necessary flying altitude will mean that flights cannot take place even when the ground temperature is well above freezing.

Is the helicopter capable of transporting patients with head injuries and will its range and the need to refuel delay patient transfers? Will the helicopter be able to take patients from mainland hospitals back home to the island of Barra?

My constituents' concerns arise from the knowledge that in the recent past the aircraft capable of landing on the beach airstrip were replaced by a helicopter service. Within a short space of time, the fixed-wing aircraft were back in service because in practice the helicopter did not provide an acceptable alternative.

I welcome the fact that the new service promises improved comfort for patients. We all welcome that. We also welcome quicker response times and better access. The Scottish Ambulance Service states that the new standards

"represent an overall improvement on current service levels."

The minister knows the islands well. He knows Barra well and he knows Lewis well, having been born there. I am delighted to see that he is responding to the debate. The 1,200 people on Barra—like those on Orkney—need an assurance. They must place their trust in those who provide this vital service. I sincerely hope that tonight, or some time after the debate, answers will be given that will enable them to put their confidence in the new arrangements that will come into place this April.

17:20

Jim Mather (Highlands and Islands) (SNP): I, too, congratulate Jim Wallace on securing the debate. I welcome the contributions that he and Alasdair Morrison have made to the debate; both of their testaments were convincing, factually rich, practical and deeply concerning.

I echo the concerns that Jim Wallace expressed about the adequacy of cover, the reduction in the robustness of the service and, especially, the ability of the EC135 helicopter to fly in winter weather. The last concern is particularly worrying, given the wide area that has to be served. As Jim Wallace said, it is hard to see the proposal as an improvement; it seems to be more of a step backwards. I am sure that the minister will want to address that key issue in his closing speech. As Alasdair Morrison said, the present Deputy Minister for Health and Community Care brings more empathy to the subject than others do.

I view the issue in a wider geographic spectrum. In common with Alasdair Morrison, I too would like to focus on Barra. I am grateful for the contributions that I have received from Councillor Donald Manford, Hugh Douglas, the chair of the Northbay community council, and from one local mother in particular, Mrs Mairi Campbell. The concerns that they have voiced to me are highly practical concerns about the capability of the fleet to match people's expectations let alone to match the current level and availability of service.

The proposal that the route to Barra from Inverness should be via a refuelling stop at Stornoway, with all the delays and problems that that may involve, is unsettling to say the least, especially as demand may reach a level at which other helicopters that are not only not designed for this work but have other conflicting roles to play have to be pressed into service. As Alasdair Morrison said, there are real concerns on Barra about a future in which planes are not available. The Islander aircraft has been proven over the piece to be much more weatherproof than the helicopter.

There are also current practical concerns about the helicopter's ability to carry escorts. I note from an article in today's *Stornoway Gazette* that John Morton of the Scottish Ambulance Service is trying to alleviate those concerns, but they will continue: people are worried about whether the need for an escort will have to be requested in advance, whether the weight of an escort will be seen as a critical factor and whether parents can regularly accompany children. Equally, there are concerns about the rumoured withdrawal of non-emergency return flights, which could result in people who are ill or recuperating being forced to find their own way back to their home island. The suitability of

the helicopter to carry pregnant women has also been mentioned.

More fundamentally, when I looked again over the Scottish Ambulance Service's response to the consultation, I noted the nature of the way in which it handled the issues at the time. Its attempt to address all the concerns can largely be described as a woolly, work-in-progress statement that lacks practicality. The service's response has no clear criteria or completion dates. I can find neither an objective analysis that would have convinced potential users of its case nor a structured attempt to address the concerns of people in Skye and Barra.

If tonight's debate is about anything, it is about a request to have those concerns properly and fully addressed. We do not want the step back about which Jim Wallace and I are afraid; we want progression so that not only do we have fulfilment by the Scottish Ambulance Service but a commitment to perpetual improvement in services as we go forward. That is what will give people on the islands the security and confidence in the service that they require. It would also give a platform for the islands to be as effective as they deserve to be and in balance with the rest of Scottish society.

17:24

Mary Scanlon (Highlands and Islands) (Con): I, too, want to thank Jim Wallace for bringing the debate to the chamber. He has given members the opportunity to talk about this crucial service in the Orkney islands.

A visit to the ambulance station in Inverness can only leave someone immensely impressed with the level of technology that is used by its highly trained staff. The latest technology, coupled with expert local knowledge and understanding, is an ideal combination for our national health service. I hope that a similar balance can be found in the implementation of the air ambulance service for Orkney. However, like other members, I fear that invaluable local knowledge of the islands will be conceded to centralise the service.

The Scottish Ambulance Service maintains that the new service will improve access and medical treatment for patients, that it will be more comfortable and will have wipe-clean and sealed surfaces that will help to reduce the risk of infection. I am sure that everyone in Scotland would welcome more effective ambulance treatment and a more comfortable journey to hospital, by road or by air. Similarly, I am sure that people would welcome an upgrade of the existing fleet of aircraft, to take advantage of innovations. The concern that the people of Orkney have is that the vital role of the air ambulance fleet, which the

Kirkwall-based Islander aircraft have fulfilled excellently for many years, will be compromised by the desire to improve standards.

I respect and commend the views of the elected members of Orkney Islands Council. I welcome the council's convener, Stephen Hagan, who is in the public gallery. The council has provided members with an in-depth report of councillors' views on the proposals and trials, which raises several serious concerns. We must first question the loss of the dedicated Orkney service. Given that the Inverness-based EC135 helicopter will cover a wide area of the Highlands and Islands, it may simply not be available for a large percentage of time to serve the needs of people in the Orkney islands.

Although the Scottish Ambulance Service maintains that journey times will not be affected and may in fact be quicker, the reality is that any aircraft that take off from Inverness will have to travel up to 120 miles or further to reach some of the outer islands. In an emergency, that extra distance could be dangerous. I also wonder whether patients from Orkney will be more likely to be treated in Inverness rather than in Aberdeen, as happens at present.

The Orkney Islands Council report also expresses concern that the EC135, which will be the focal point of the new service, is said to be of limited use in bad conditions, as Jim Wallace and others have said. It is anticipated that the aircraft will frequently remain grounded during the winter months because of its zero-icing operational requirement. Whether or not that is the case, the use of an aircraft that is difficult to operate in wintry conditions and that must travel almost twice the distance that the current service travels to reach many areas of the Orkney islands is a worrying scenario for patients and their families. We should also remember that in the poor visibility that is caused by high winds and rain—weather that is not at all uncommon on the Orkney islands—the local expertise of the current piloted service excels. The ideal situation would be a combination of advanced technology with the knowledge of residents.

Like other members, except perhaps Stewart Stevenson, I cannot judge the performance of aircraft but, following the outcome of the consultations and trials, the crucial point is that the new service must earn the confidence of people who live in Orkney and the Highlands. People must be assured that they will not be left with a poorer-quality and unsafe service. That is the concern that has been raised today and which I hope the minister will address in his summing up.

The Deputy Presiding Officer: I call Eleanor Scott, to be followed by Rob Gibson, which is as it should be.

17:29

Eleanor Scott (Highlands and Islands) (Green): Thank you very much, Presiding Officer.

I am happy to speak in the debate. I signed the motion only yesterday, because I thought that I had signed it earlier, but I had not. I will speak primarily about the effect of the new arrangements on maternity services. I have two reasons for doing so: the first is that the subject is an emotive one and the second is that I know something about the maternity service in Orkney, as I recently visited the maternity unit in the Balfour hospital in Kirkwall.

The service provided at the unit is run by midwives and general practitioners; they are clear that it is a joint venture. I visited it because it is such a good example of working together to deliver maternity services in an island setting. It is an excellent service with a high level of patient satisfaction. One indicator is that it has far and away the best breastfeeding rates in Scotland. There are several pieces to the jigsaw of that excellent service: confident and committed midwives; confident and committed GPs; the joint training that the midwives and GPs undertake; and their trust in each other. Another piece of the jigsaw is the specialist back-up that the midwives and GPs receive from a big hospital—in this case in Aberdeen—which mainly consists of antenatal input, so that problems are identified early and any patient who has to go to Aberdeen for delivery does so on a planned basis.

There will always be occasional emergencies, which is where the changes are a cause for concern and where the midwives I have spoken to have identified potential problems. Under the current system, the plane is based in Orkney and is easily accessible. Although it has to leave the islands to make other runs, in practice obstetrics emergencies tend to be at night when the plane is there. The plane is generally rapidly available. Under the proposed new system, there is an obvious delay. A helicopter has to come from Inverness and, as the motion says and as Jim Wallace made clear in his introduction, it is likely to be much more dependent on the weather.

Other problems have been referred to, such as space. The helicopter is much smaller and there is concern that there will simply be no room for a doctor or nurse to attend to a patient's needs in flight, should that be necessary. The lack of space also means that if a midwife, doctor or nurse has to travel with the patient, which quite frequently happens in emergencies, there will be no room for a relative to go too. For that reason, during the trial of the helicopter three men were unable to accompany their pregnant wives. That is not an acceptable quality of service.

Because the helicopter is based away from Orkney, another problem is that a doctor or nurse accompanying a patient to Aberdeen has no way of getting back to Orkney. They will be stuck there, waiting for a scheduled flight to get home, leaving the service back on Orkney understaffed. It is not long since the Parliament debated the Kerr report—a document that has received broad cross-party support. It stressed the role of rural general hospitals. The Balfour hospital on Orkney could be an excellent example of such a hospital; it is a model that we should be developing. I have focused on maternity services, but I am sure that the same concerns exist in other specialties. If we are serious about supporting our rural general hospitals, we must provide them with access to the specialist back-up of the big centres, both on an on-going, planned basis—that is the easy bit—and in the emergency situations that will inevitably arise. People need to be confident that that safety net is there.

I agree with the motion and I feel that the proposed new arrangements represent a retrograde step and a reduction in the quality of service. As we have heard, areas other than Orkney have been affected and I ask the minister to reconsider the matter.

17:33

Rob Gibson (Highlands and Islands) (SNP): I am glad that Jim Wallace has secured this debate. I attempted to get a debate of this sort after December 2004, when those members who have researched questions on this subject will note that I lodged a motion similar to that of Jim Wallace. The arguments related particularly to Orkney, but also to the Western Isles and other areas. Since then, the air ambulance trials have taken place, but other information should perhaps have been taken into account. A study was carried out for RARARI—the remote and rural areas resource initiative—about a place on Arran that can only take helicopters to shift patients to the mainland. The study considered evacuations over the past 10 years and showed that there was no consistency among GPs in their reasons for calling the ambulance. It is obvious to us that certain aspects of maternity and so on are definitely emergencies; indeed, the professionals have a wonderful ability to decide what really is an emergency. The SNP is not suggesting that that should be redefined, but it would be helpful if the minister could consider how ambulance call-outs are dealt with and on what basis.

Christine Grahame: Does Rob Gibson agree that the downgrading of the air ambulance service compounds the position on Flotta, where there is no longer a resident GP, as it does on all the outer islands? The people on Flotta are even more

disadvantaged by the downgrading and my sister, who is the head teacher there, has raised that issue at one of Jim Wallace's surgeries. We must not think that everybody in Orkney is in Kirkwall.

Rob Gibson: I thank Christine Grahame for those germane remarks. There are arguments about the reduction in the numbers of GPs in the islands, especially the outer islands. That is a slightly separate subject, but it will certainly have to be addressed to secure the islanders' interests.

The basing of aircraft on the islands, not at some central point, is central to the argument. It would be useful for the minister to compare how ambulance services in other countries handle such matters. It is fine if we have an airstrip that can be used. [*Interruption.*] I am glad that members from other parties realise that I am about to suggest that we consider the north of Norway. It is instructive that the service there is better manned, that it has a larger number of aircraft and that how it is organised causes less concern. At least, that was the situation on my visit to a medical conference in Norway last September and that was the kind of information that I was seeking. We should compare what we have with what other countries have, because the new contract gives us less than we had when I was writing my motion, more than a year ago.

Part of the problem with creating a dedicated service is that some of the contract relies on coastguard aircraft being available in emergencies. However, coastguard aircraft might not be available in precisely the kind of weather that we have been talking about, so how can we arrange the service to have fewer aircraft and be more reliant than before on the availability of coastguard aircraft? Fewer aircraft will not do. The idea that the aircraft could be based in Inverness and that it could be icy there, but not in Orkney or Barra, is another issue. If we are dealing with emergencies that are mainly in the islands—we can show from the figures that we are—we must rethink. I ask the minister to address that point. Scotland requires greater investment in appropriate aircraft, more of which should be based in the places that are most affected by severe weather. The Scottish Executive should ensure that a proposed new, best-value contract does not place lives in greater jeopardy than in the past.

I hope that the minister will address some of those points, which are germane to all our island groups and remote mainland areas.

17:38

Mr Jamie McGrigor (Highlands and Islands) (Con): I thank Jim Wallace and welcome tonight's debate on an important issue for Orkney. The

provision of air ambulance cover for the islands was one of the key issues that council convener Stephen Hagan raised with me when I met him in Orkney last summer. It is of real concern to local people and I raised it with the Minister for Health and Community Care by writing to him on 15 September. In his reply in a letter to me dated 19 October last year, Mr Kerr admitted that there had been some teething troubles with the service.

I wonder whether the teething troubles to which the minister referred included the case, which is documented in Orkney Islands Council's report on the trials, in which the air ambulance was requested to transfer a patient with a severed artery—apparently with blood pumping from the wound—to hospital. Because the helicopter was on another mission, the air desk staff said that they would reply shortly with an estimated time of arrival. The doctor advised them that the case was urgent, but it was nearly an hour after the original request before even an ETA was given. The helicopter arrived 108 minutes after the request, and the time factor that is recorded on the statistics sheet is 120 minutes. However, in the statistics that Orkney Islands Council received from the SAS, the case was classed as being completed as planned.

Perhaps the minister was referring to another case in May—again, I will paraphrase the official document about the case. The air ambulance was requested to transfer a patient with a terminal condition to hospital. According to the doctor, the pilot stated that they would not fly due to cloud conditions. The air desk said that it could move the patient to Kirkwall but that the air ambulance might get stranded there due to the weather, in which case it would not be available for the rest of the evening. The doctor felt that he could not deprive someone else who might be in a life-or-death situation so he decided to wait.

I appreciate that those examples might be the exception rather than the rule, but they do little to instil confidence in the much-vaunted new level of cover. The chief executive of the Scottish Ambulance Service, Adrian Lucas, says that the claims that Islander aircraft based in Orkney and Shetland can respond more quickly are based on flight time rather than overall activation time. He based that view on the fact that the Inverness-based EC135 helicopter will be in the air in two minutes and, because it flies much faster, the overall response time from the initial request to arrival at the receiving hospital will meet the time standards. Does that mean that, if both the Islander and the EC135 were alerted at the same time, the EC135 would be able to travel all the way to Orkney, pick up the patient and return to Inverness in the same time—or less—that it takes the Islander to do the one-way trip from Kirkwall to Inverness?

Perhaps the Executive will provide us with a comparison of the average time for an Islander-based response and the average time for an EC135-based response, from the alert time to the patient's arrival at the destination hospital. Does the Executive have any figures on that?

I fully support the concerns of Orkney Islands Council convener Stephen Hagan, who said:

"Many people living in the isles will feel vulnerable when the new contract starts, especially those in our more remote areas. This goes against everything we're doing as a council to halt depopulation ... Without adequate air ambulance cover this will be at risk. Everywhere in the Highlands and Islands area will have the service or back-up service based locally, except Orkney, which obviously raises great concerns."

People in Orkney feel that the Executive is not listening to their local concerns. Communities such as Orkney need to have confidence in their emergency health provision and the air ambulance is a crucial part of that. When I met Stephen Hagan, he suggested that the estimated cost of retaining the Islander on an emergency-only basis was about £100,000. I am not sure whether there is an updated figure, but given that the new contract to run air ambulances will cost £70 million over six to seven years, surely funding can be found to keep the Islander for use in emergencies.

Unless action is taken by 31 March, the security that the well-trusted Islander gives Orkney will end. Orkney Islands Council is concerned; politicians from all parties, including the Executive parties, are concerned; doctors are concerned; and, most important, local people in Orkney are concerned. The Executive should reconsider its position and allow the retention of the excellent Islander aircraft, which can land on a sixpence, to ensure that Orkney continues to be covered by its well-proven service.

17:43

Stewart Stevenson (Banff and Buchan) (SNP): I thank Jim Wallace for the opportunity to talk about flying, which is one of my favourite subjects. I will not disappoint my many fans in the chamber. I will try not to be influenced by the fact that my particular set of flying qualifications would allow me to fly the Britten-Norman Islander but not the EC135, although I have to say that in no sense do I aspire to fly in the conditions that are faced by the expert pilots who provide air ambulance services in Scotland. They do something that few pilots would wish to do, however highly qualified or experienced they are.

I will make one or two points about aircraft and equipment. The issue of icing has been mentioned. It might be of interest to members—or perhaps not—to know that the icing level above ground is 500ft for every degree Celsius by which

the ground temperature is above zero. If the ground temperature is 3°C, the freezing level will be 1,500ft. It would be fair to say that in winter in the northern islands, there will be many occasions when the ground temperature is at or close to freezing. That does not automatically mean that there will icing in the air; there has to be cloud as well and it is only in cloud that icing will occur. On that basis alone, the Islander beats the EC135 hands down, although we should not overplay its ability to deal with ice because it can deal with only the lowest of the three categories of ice.

That brings me neatly to one of the things that I would like to bring to the minister's attention. When we went to the market to look for a contract for this service, perhaps we did so without taking the opportunity to look at new technologies and simply bought the technologies that happened to be available. For example, the King Air is a fine aircraft but because it has retractable undercarriages, it is simply unsuitable for landing on beach airstrips such as those that are used by the ambulance service in Mr Morrison's constituency at Northton in Harris, in South Uist and at Solas in North Uist, and of course by the regular commercial services that go into Barra and elsewhere. Virtually every island in Scotland has an airstrip; Arran is the only exception that I can think of at the moment.

If we were being challenging and ambitious—if we wanted to show the world—we would have specified the gold standard and seen to what extent we could achieve it. I suggest that that standard might be a Britten-Norman Islander with a piston diesel engine. Despite how that sounds, that is modern technology that is just coming into use. It is technology that can fly in all conditions. The engine can be started and stopped without any cooling-down time. It can burn any available fuel, so if the aircraft got to an island and was short of fuel, it could use fuel drained from the tank of a car or lorry. That is terrific in the bush-type flying conditions that the aircraft experience.

Mary Scanlon: Will the member take an intervention?

Christine Grahame: I hope that Mary Scanlon is not going to ask a technical question.

Mary Scanlon: No, but I am so bowled over by the member's expertise that I want to ask him whether he has offered that incredible advice to the Scottish Ambulance Service.

Stewart Stevenson: I regret to say that I have not and I suspect that the service would look at the information in a different way. All I am saying is that we should consider the new technologies that are out there and ask what we could do that would best meet our needs; fuelling is one of the issues to consider.

At the core of the argument is the real issue, which is where the aircraft is rather than what it is. If the aircraft is in the islands, the cloud base is at 100ft, the ground temperature is 0°C and it is icing at 100ft, the Islander can take off and fly. It cannot land again and it would be forbidden to conduct normal commercial operations under those circumstances. However, it is permitted to—and the pilots are prepared to—operate humanitarian missions under those circumstance. The EC135 cannot do that, and that is the bottom, middle and top of the issue. The issue is where the aircraft is, not what it is, and the aircraft need to be near the patients.

17:48

The Deputy Minister for Health and Community Care (Lewis Macdonald): I welcome Jim Wallace's motion and the opportunity that it provides to address the changes that the Scottish Ambulance Service is planning to implement in its air ambulance service provision from April. As Alasdair Morrison said, these are important matters for all Scotland's islands, as I know from my background. Indeed, the service goes back to the time when my father was a boy on North Uist. The first air ambulance flight was from Islay in 1933 and there has been a continuous service to Scotland's islands since then.

Neither Scottish ministers nor the Ambulance Service would wish to compromise the service, but we should not assume that the means of delivery of the service are beyond improvement. That is why, since 2003, the Ambulance Service has been engaging with service users and other key stakeholders, including health boards and local authorities, in preparation for a new service contract to begin later this year.

When the consultation began, the Scottish Ambulance Service had already made significant changes in its provision of ambulance services. It had introduced a priority-based dispatch system for emergency telephone calls, which was informed in part by the work of the Audit Committee. It had created three new emergency medical dispatch centres—to which Mary Scanlon referred—that use the most up-to-date technology and are designed to improve the responsiveness of the service to those in greatest need.

The basis on which the emergency ambulance service operated was fundamentally changing from getting the patient to a hospital as quickly as possible to focusing on using the enhanced skills of paramedics and technicians to take high-quality clinical care to the patient as quickly as possible. The road accident and emergency ambulance units and the rapid response ambulance units are designed and equipped to support such an approach.

The consultation on air ambulance services that began in 2003 was intended to ensure that they too could deliver a service that is compatible with the overall direction of the Scottish Ambulance Service—getting the best-quality care to the patient. The tendering process sought to invite bids from companies that could provide aircraft to achieve those objectives. At its January 2005 meeting, the board of the Scottish Ambulance Service agreed that Gama Aviation with Bond Air Services be confirmed as the new air ambulance service provider from 1 April 2006.

The new service will be provided by two dedicated EC135 helicopters operating out of Glasgow and Inverness on a 24-hour basis, and by two brand new dedicated fixed-wing King Air aircraft at Glasgow and Aberdeen that have been designed for the required medical equipment.

Back-up for the outer Shetland Isles will be provided by BP using its Super Puma search and rescue helicopters. Further back-up will be provided by the Ministry of Defence and HM coastguard, as has been the case for many years when, for one reason or another, an aircraft in the service has been unable to complete its mission.

Stewart Stevenson: Will the deputy minister reassure us that the back-up aircraft have pilots on standby to fly them at all times?

Lewis Macdonald: The coastguard back-up is available around the clock. I will be happy to respond in writing to Mr Stevenson's inquiry regarding the Ministry of Defence. However, I expect that it would be covered in the same way.

As Jim Wallace acknowledged, the majority of missions that are flown by air ambulance flights are planned. In 2005, 310 out of the 340 Orkney air ambulance service missions were planned. Up to 96 per cent of those met established performance standards. Of the 30 Orkney missions in 2005 that were classified as emergencies, 27 had a timescale that was agreed with the requesting clinician. The Scottish Ambulance Service met the timescale in all but one case—a performance of 96 per cent against a target of 95 per cent.

Mr Wallace: I am grateful for the written answer that I received today from the Minister for Health and Community Care, Mr Andy Kerr.

The deputy minister referred to 30 emergency and 310 planned flights in 2005. The figure for emergency flights of 30 compares with a figure of 101 for such flights in 2004. Does that not give some colour to the widespread belief on the island that general practitioners have been pressured into redefining particular incidents as non-emergencies to fit in with the air ambulance's convenience?

Lewis Macdonald: The performance standard is one that is agreed between the clinician in question and the air ambulance dispatcher. As has been indicated in several speeches, the GP or clinician in such circumstances has the final responsibility to make that judgment. Clearly, he or she should always do so with the interests of his or her patient firmly in mind.

Of course, there are occasions when time is critical. I will comment briefly on such cases, about which Jamie McGrigor asked. Both the EC135 and the King Air aircraft are available around the clock—24 hours a day—and have an activation time of two minutes. I understand that the Islander aircraft has an activation time of 60 minutes. Both the EC135 and the King Air aircraft are able to deliver patients to hospital within their set target times. We know that that is the case for the EC135 because the air ambulance service agreed to put the service in place in Orkney a year early, in order to test its ability to deliver patients on time and to standard. In general terms, that has been achieved successfully.

Mary Scanlon: I am listening carefully to what the minister is saying. Does he conclude that the concerns that people in the Orkney Islands have expressed about the air ambulance service's new system are unfounded?

Lewis Macdonald: I would never diminish concerns that are felt either by elected representatives such as Jim Wallace, Alasdair Morrison and others from whom we have heard and with whom issues have been raised locally or by GPs. However, I recognise that changes in service always require all parties to work together to deliver them successfully. Concerns have been raised that will be addressed as the service is rolled out, but I hope that what we know from the 12 months of trials in Orkney will give some reassurance to members that some of the issues about which they are concerned will prove to be less serious than they anticipate.

For example, it has been suggested that weather will have a significant impact on the flying ability of the EC135. Over the past 11 months, there has been only one occasion when the Ministry of Defence helicopter has been deployed because the EC135 was unable to fly due to weather conditions. Jim Wallace referred to a number of other occasions. I understand that he will receive more detailed information about those in the near future.

Concern has been expressed about fuel and refuelling. I point out that, where necessary, the EC135 can fly from Inverness to the northern isles of Orkney, collect a patient and return to Kirkwall without refuelling, which is significant.

The issue of utilisation rates has been raised. The air ambulance is currently working at 13 per cent of capacity, so there are grounds for believing that capacity will be available.

A number of members raised the issue of the carrying of escorts. If the service is informed of the need to transfer an escort when the request for transport is made, it will do so. In its standard configuration, the aircraft is set up with three seats—two for the paramedics and one spare seat—so an escort can be accommodated. The same should apply in maternity cases. However, it is recognised that more needs to be done on the interior spec for carrying such cases. The Ambulance Service is working on the issue at the moment, with midwifery staff from the Queen Mother's hospital in Glasgow.

Officials will visit Barra tomorrow, and I hope that Alasdair Morrison will be able to meet them if he is in his constituency at the time. They will certainly be happy to meet him and council representatives to address any specific issues that they would like to raise. All of us recognise the importance of ensuring that the service that is provided meets the needs of islanders. I hope that, with continuing dialogue between local authorities, elected representatives, the NHS locally and the Ambulance Service, the remaining concerns—about which Mary Scanlon was right to ask—can be addressed to the satisfaction of the communities in question.

Meeting closed at 17:59.

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