

MEETING OF THE PARLIAMENT

Thursday 20 April 2006

Session 2

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Scottish Parliament

Thursday 20 April 2006

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

Drug Treatment and Rehabilitation

The Presiding Officer (Mr George Reid): Good morning. The first item of business is a debate on motion S2M-4252, in the name of Rosemary Byrne, on a statutory right to drug treatment and rehabilitation.

09:15

Ms Rosemary Byrne (South of Scotland) (SSP): The motion calls for a radical rethink of drug treatment and rehabilitation. It proposes the provision of a statutory right to access services within seven days of a person's seeking help and a move away from a criminal justice-oriented approach and towards one that involves health and social care. It is time to recognise that drug addiction is a health and social care issue, and that treatment and support are the means to reduce crime. The average heroin user is estimated to steal around £160,000-worth of goods and cash each year in order to buy drugs. The former Lothian and Borders chief of police, Tom Wood, who is now the Edinburgh drugs tsar, says that the majority of housebreakings committed in Edinburgh are down to drug users.

Drug users themselves talk about the revolving door, meaning that, without appropriate treatment and support, they continue on a cycle of drug-related crime, which results in a high cost to society. The national treatment outcome research study showed that a two-year treatment programme encompassing residential care, substitute prescribing and mental health care for a group of 549 users cost £2 million. That generated a cost saving to social services and the criminal justice system of £27 million. That is a ratio of 9.5:1. In other words, for every pound spent on proper treatment and rehabilitation, £9.50 is saved on criminal justice and other public expenditure.

That is why, later today, I will be lodging a proposal for a member's bill, the drug treatment and rehabilitation (Scotland) bill, and launching a consultation. I believe that drug users require holistic care plans based on individual need, offering a range of treatment and support. Services could be integrated by allocating a key person to formulate and implement the plan following the initial assessment, in conjunction with

the drug user. The plan would cover family support, employability, dual diagnosis and medical treatment, as well as social and housing support. The range of treatments would include residential rehab, community-based rehab, substitute prescribing and detoxification.

The need for integrated services is clear. There are models that can be considered. The Glasgow addiction team is moving in that direction, with a four-day turnaround from the initial appointment to the treatment programme. That example needs to be replicated throughout Scotland, with equal access to services in all areas. There is a cap on methadone prescriptions in NHS Forth Valley and in NHS Ayrshire and Arran, for instance, whereas there is access without any limiting criteria in other national health service board areas.

I emphasise the need to consider alternative substitutes, including heroin and buprenorphine. Methadone is a dirty, highly addictive drug. As one ex-heroin addict asked me recently, "Why is it that the poor kids get parked on methadone while the rich kids get sent to the Priory?" That is a good question. I will return later to the question of residential rehab.

Stewart Stevenson (Banff and Buchan) (SNP): The member said that each heroin addict steals £160,000-worth of goods each year. The Executive says that there are 51,000 heroin addicts. That makes a total of £8.16 billion per annum in thefts. Is the member trying to persuade us that that is the actual figure? That is substantially higher than any previously stated figure.

Ms Byrne: I quoted a figure that Tom Wood gave us for Edinburgh. The black market and the drug economy are a multimillion-pound industry. It would be far better to spend money on treatment and support.

Before everyone starts to think that I am advocating that we cease the prescription of methadone tomorrow, I will stress that I am not. There are two points to be made on the subject. First, methadone has stabilised many people over the years, taking them away from crime and giving them the ability to care for their families. Secondly, the reason why many people are on methadone for the long term is that we do not have adequate rehab facilities in place across the country. Getting a scrip and 20 minutes of counselling once a week or once a fortnight is hardly rehab. That is the picture in many towns, however.

For some people, residential rehab might well be the best option. At present, however, it is not a choice for most. I am calling for a range of treatment options suited to the individual. For some, that will mean rehab, be it residential, community based or one following the other. For

others, detox and abstinence could be the right option, given the right support. In other words, one size does not fit all. Where detox is concerned, there needs to be a recognition that, without appropriate support, there is a great danger of relapse and overdose, which is what causes many of the drug deaths that occur.

I will expand now on the need for family support to form part of an holistic care plan. It is estimated that between 40,000 and 60,000 children in Scotland are living with drug-using parents. The effects on children, as recent cases have highlighted, can be devastating. That is why my proposed drug treatment and rehabilitation (Scotland) bill includes an assessment of family needs. That assessment needs to be non-threatening and supportive, and it should involve agencies such as Barnardo's. In a briefing issued for the debate, Barnardo's states:

"Effective intervention can be held back when agencies involved do not share information or a common understanding of the threshold for intervention. It is also problematic when the child's needs are considered in isolation but the parental substance misuse and poor parenting are not tackled."

Barnardo's states that, in its experience, the things that work include

"a joined-up approach that addresses the children's needs whilst at the same time addressing the addiction and parenting needs. There must be close co-operation between the adult and children's services to do this effectively."

Thus there is a need for integrated services and a care plan that can be implemented and reviewed on a regular basis, ensuring that access to treatment and support meets the needs of the individual. The establishment of a seven-day right to treatment will revolutionise our approach to drug addiction by putting the health and social care approach centre stage, as opposed to criminal justice, which is the current priority. The time for talking is long over. Everyone agrees that treatment and rehabilitation must be readily available. Even our First Minister recently said:

"We cannot be satisfied until there are adequate treatment and rehabilitation services in all areas of the country".

For six years, I have been campaigning in Irvine with a group called Mothers Against Drugs for the setting up of a rehab facility, following many deaths in my community and the complete devastation that that has brought. We still do not have that facility.

My proposed bill will help join up services. This morning's motion is here to advance the proposals that will be contained in the bill and to get the debate started. I hope that members will be able to support the bill and that we can at last turn around the misery that is caused in our communities

through drug misuse and the crime that goes on around it. If we are to tackle the crime that is related to drugs, we must also be sure that we tackle the issues around treatment.

I move,

That the Parliament notes the continuing social and human cost of drug misuse across Scotland and that past and current policy approaches have failed communities, drug users and their families miserably; regrets the fact that drug-related crime, premature death and family breakdowns continue to rise; believes that the predominant criminal justice-oriented approach to drug-misuse problems in Scotland is not only failing to address the problems but is actually counter-productive in diverting resources and attention away from treatment and rehabilitation; further believes that a predominantly social and health-led approach is now necessary and that a statutory right to a holistic treatment and care plan should be established within a seven-day period of seeking help and should include residential care where required; considers that the introduction of such a statutory right would not only lead to improved care for users and their families, but result in significant crime reduction within communities and subsequent net savings to the public purse; further considers that cannabis use in Scotland should be decriminalised but not encouraged, that debate on the legal status of other drugs must be promoted and that substitute prescription programmes, such as the provision of heroin or buprenorphine for treatment of appropriate users, should be introduced and supported across Scotland, and believes that significant investment in community and sporting facilities to tackle poverty and offer positive recreational activities to Scotland's young people is an essential but under-invested element of anti-drug abuse strategy.

09:23

The Deputy Minister for Justice (Hugh Henry): I know that Rosemary Byrne cares deeply about these issues and that she campaigns on them actively. There is much in what she says with which I could not disagree. In fact, she makes eminent sense on some things. However, I must disagree with some of her conclusions. While I think that the proposed bill to which she refers has some noble aspirations, from what I have heard this morning, it will not actually offer a constructive way forward in terms of practicality and effectiveness. However, we can deal with that later.

The gist of what Rosemary Byrne has to say is right, and none of us could disagree with it. We know that there is a major challenge in dealing with drug addiction in this country. At the same time, however, we must keep a sense of perspective. Despite the difficulties that we face, we are making progress. The number of problematic drug users is going down, as is the proportion of those users who are injecting. The use of drugs among schoolchildren is stable. More people than ever before are getting treatment for their drug addiction. The rate of acquisitive crime—robbery, burglary and the handling of stolen goods—fell by 24 per cent between 1999-

2000 and 2004-05. However, we cannot be complacent. We still face a major challenge, because of which we have steadily increased funding over the past seven years. We now have record levels of investment in tackling drug problems. We have put improved treatment and rehabilitation services at the heart of our approach. Our support of drug treatment services has nearly doubled since 2000. We are now investing £23.7 million per year, which means that there are more services and there is a better range of treatments. Since last year, an extra £4 million has been provided, which has resulted in more than 2,600 new clients in the period to March 2007. That is in addition to the 14,300 new clients who accessed a wide range of treatment and rehabilitation services in 2004-05.

We are committed to providing addicts and their medical advisers with a wide range of treatment and rehabilitation options, from residential detoxification and rehabilitation to community and motivational support and substitute prescribing, to which Rosemary Byrne referred. We are conducting pilot experiments in the use of buprenorphine.

We know that, despite all that work, there is no quick fix to tackling drug addiction; neither is there a single treatment option that will work for everyone, which Rosemary Byrne acknowledged.

Margo MacDonald (Lothians) (Ind): In no way do I wish to introduce a note of discord, but, although I acknowledge that increased resources have been allocated, I would like the minister to explain why some beds in detox centres—which are not exactly residential—are lying empty. Is that down to a shortage of resource in the local authority or the health authority?

Hugh Henry: It might be down to a combination of factors, including a decision by the medical people responsible for dealing with a particular addict about the appropriate course of treatment. As Rosemary Byrne acknowledged, not everyone would benefit immediately from residential rehabilitation or treatment. Beds might be lying empty because of finance or access issues, or because the medical people do not believe that particular individuals are ready for residential rehabilitation. I cannot substitute my opinion for the decisions of medical experts.

Margo MacDonald said that she did not want to introduce a note of discord. I prefaced my remarks by saying that I thought that there was a degree of consensus in the Parliament about how we should proceed. Had it not been for the vagaries of the system, we would have supported the Scottish National Party amendment, because there is much in it that we commend to the Parliament.

We need to work together on the treatment and care of drug users, because we owe it to the users, their families and their communities to deal with the real world. We know that drug addiction is a chronic, relapsing condition, but we also know that people's needs change and that we face a challenge. We need to ensure that people get treatment when they need it.

Brian Adam (Aberdeen North) (SNP): The minister said earlier that he did not think that there was one way of dealing with everything. I know that he has considered the possibility of prescribing heroin rather than methadone in some cases. What progress has been made on that?

Hugh Henry: Currently, no doctors in Scotland are licensed to prescribe heroin. Pilot projects are being undertaken in England and we will take account of what happens there. We need to be realistic and honest about such experiments, including those in other countries. They are small-scale and apply to a small number of people for whom every other course of action has failed. Prescribing heroin is not a large-scale solution to the problem that we face. We need to get it in perspective.

I want to see more solutions. Rosemary Byrne referred to the model in Glasgow, which has combined health and social care services in partnership under single management in a community setting. It has a properly joined-up system of managed care, where services and clients can plan more easily for a beginning, middle and end to treatment for addiction. I want to visit that model and I invite my colleagues on the justice committees to join me, because I think that we could all learn from what is happening in Glasgow.

Because of the time constraints, I will skip to my conclusion. We know that drug treatment is the most effective way of reducing drug-related crime. We know that we need to put money into diversionary activities and early treatment. As the SNP has suggested, we should be spending more on trying to recover the assets of dealers in order to use them to good effect. We will continue to build on the successful model that we have already agreed.

I will leave it to others to raise the issues of the declassification, legalisation and decriminalisation of drugs, because I do not have the time to do so.

We need to support drug addicts' families and the wider community. We have a clear vision for tackling drug addiction in Scotland. Drug use is not inevitable. I agree that the long-term solution must be a drug-free life, but addicts have to get the support that they need to motivate them towards that goal. We need to give priority to children and young people. Above all, we need to say to those

who are using the substantial resources that we have provided throughout Scotland that they have to be accountable for the use of that money and report back to us on how effectively it has been used.

I move amendment S2M-4252.4, to leave out from “notes” to end and insert:

“recognises that drug abuse destroys lives and tears families apart; believes that improved treatment and rehabilitation should be at the heart of our approach; further believes that there is need to help addicts to move towards a drug-free lifestyle by offering a range of interventions; welcomes the progress made but recognises that more needs to be done, particularly to make sure that treatment is linked to further support, and believes that early intervention is the most effective way of helping offenders and reducing drug-related crime.”

09:30

Stewart Stevenson (Banff and Buchan) (SNP): I welcome the minister’s acknowledgement of what is said in the SNP amendment and, in turn, I acknowledge that the Executive’s amendment reflects something that we can support. Consensus on this difficult subject is highly to be desired. The issue must be above much of the hurly-burly of party politics. The problem is far too serious for us in the major parties to spend time exercising our differences, given that the way forward will more usefully be found by our identifying what we have in common.

Of course it is proper that we debate this important subject. Rosemary Byrne explained helpfully where the figure of the £160,000 in thefts by addicts comes from. Others in the criminal justice system would suggest an average of £36,000 in thefts a year per addict, but that still leaves us with an immense problem, so let us not get bogged down in arguing about the odd billion pounds here and there. Whatever figure we come up with, we have a substantial problem.

I will refer in passing to a number of research documents that touch on the issue. The first is the report by Neil McKeganey, Zoë Morris, Joanne Neale and Michele Robertson from the centre for drug misuse research at the University of Glasgow—a highly respected institution—who conducted a survey of drug addicts’ aspirations. The interesting, but not surprising, thing is that 56.6 per cent of the addicts questioned wanted to get clean and come off drugs, while a substantially smaller proportion simply sought harm reduction.

Aspiration and achievement are of course two different things. We have to support addicts as they move towards abstinence, to whatever extent they are able to make that journey. To do that, we have to tailor the interventions to the needs and abilities of addicts. There is no one-size-fits-all

option. If there were, we would have solved the problem by now.

Margo MacDonald: My question relates specifically to what Stewart Stevenson has just said. In the study by Neil McKeganey, did addicts to hard drugs have a different attitude to abstinence to that of perpetual users of soft drugs?

Stewart Stevenson: We are talking basically about hard drugs.

I refer members to the study, “Licit and Illicit drug use in the Netherlands, 1997” by the Centrum voor Drugsonderzoek, which was one of the most wide-ranging studies in Europe. It examined the aspirations and behaviour of 45,000 addicts and received an acceptable response from just over half that number. The summary of conclusions on page 9 of the study states:

“Cannabis use in Amsterdam, like all other illicit drug use, is highest compared to the rest of the country.”

That leads us to consider whether, by being softer on cannabis, we deliver a benefit to the users of hard drugs.

Tommy Sheridan (Glasgow) (SSP): Will the member take an intervention?

Stewart Stevenson: I am sorry, but I do not have time.

It is perfectly clear that the approach that is taken in Amsterdam would provide a benefit in police time, but it would not touch on drug use. The study that was done in the Netherlands shows that legalising cannabis does not reduce hard drug use. If there is comparable evidence that is as soundly based and as widely surveyed and that tells a different story, I would be delighted to see it, because that would give us a way forward.

The key point to which I want to return, as I have done in previous debates, is the information gap. The Executive has said in its plans that through its substance misuse research programme it will fund research into drug users’ perceptions of the risk of overdose and delays in calling for help. However, I encourage the Executive to go much further. I do not often commend what comes out of the strategy unit at number 10 Downing Street, but its annual report on drugs is very worth while. It shows the changing pattern of hard drug use, starting in the 1950s and 1960s, and suggests that in England drug-motivated crime is worth £19 billion. That is another figure, and it is not helpful to have other figures. The report also breaks down the various crimes and shows that cannabis is about four times as heavily used as heroin.

This is a useful debate, albeit a short one. Later, my colleague Maureen Watt will speak about her experience as a prison visitor in Aberdeen and

other related experience. I will listen with great interest to what she has to say.

I am afraid that Miss Goldie is once again perhaps overplaying her hand. I say to Margo MacDonald that the last thing that we need is another commission.

I move amendment S2M-4252.3, to leave out from "the continuing" to end and insert:

"that the cost to communities, drug addicts and their families, and the public purse of drug misuse remains unacceptably high; believes that a range of interventions must be available to addicts across Scotland that are tailored to their individual needs; encourages the Scottish Executive to give further support to efforts to recover assets from drug barons; recognises that drug abuse is primarily a health issue but that intervention from the criminal justice system will often be the first opportunity for users to start on the road to recovery, and, in the absence of any compelling evidence, does not believe that any relaxation of the rules on drug misuse would do other than exacerbate current problems."

09:36

Miss Annabel Goldie (West of Scotland)

(Con): I thank Rosemary Byrne for bringing this issue to the chamber, because it cannot be debated too often. Drug abuse has spread and continues to spread misery throughout Scotland. It kills, destroys families, leads to widespread and recurring crime, breaks up communities and corrodes society. It is essential that we use all the resources of the state not just to discourage drug abuse but to do everything possible to eliminate it.

Like the SSP, the Conservative party recognises that there is no overall proper strategy for dealing with drug abuse in Scotland. I, too, am critical of the Scottish Executive for being overreliant on methadone, which simply aggravates the problem. I have made it clear on many occasions that the Conservative party is not opposed to the use of methadone per se. However, unlike those who believe that methadone is some sort of universal panacea, to be taken indefinitely by increasing numbers of people, we believe that it should be available as part of a range of options. I share Rosemary Byrne's reservations about methadone.

Conservatives believe that it is imperative that drug addicts are given immediate support and rehabilitation, to help them to end their addiction and to get back to leading a normal life. Reference has already been made in this morning's debate to the drug outcome research in Scotland—DORIS—study by Professor Neil McKeganey of the University of Glasgow. That research is interesting, because it found that, according to those who took part in it, most drug addicts who seek help do so because they want to become clean and to change their lifestyle. The drug misuse statistics for 2005 showed that the majority

of individuals who came forward seeking help did not want a prescription-based solution.

Not only are individuals far too frequently left with methadone as the only option of help, but some individuals have to wait more than a year for that assistance. That cannot go on. In October 2004, the Executive published its review of drug treatment and rehabilitation services. The report highlighted the fact that more needed to be done to help those who wanted to be helped to obtain rapid access to treatment and rehabilitation. I suggest to the Executive that a simple way of providing access to treatment would be to set up a central directory of treatment and rehabilitation in Scotland, akin to that in England and Wales. The Executive has argued that similar information can be received from drug action teams in Scotland. I have tried to abstract that information from the reports of the drug action teams, but it is not easy, because they provide information only for their area.

For example, someone in Glasgow might be willing to travel to the Highlands to get help, which would remove that individual from the environment that has led to his or her drug addiction. I ask the Executive what hope an addict or their family has of finding a rehabilitation facility when the Executive does not have that information. Recently I lodged a written question asking how many places were available for drug rehabilitation in Scotland. The answer was that those data are not held centrally. That is not good enough. There is agreement in the chamber that we have a problem in Scotland. I share Stewart Stevenson's view that there is a genuine and healthy consensus about the need to move forward with constructive solutions. However, I believe that addicts and their families and friends should have easy access to as much information about help and rehabilitation as possible.

This is a short debate, and I know that many members want to speak in it. I do not have enough time to address all the points that I would like to cover. However, before I close, I want to say that I cannot agree with the SSP's solution of decriminalising cannabis and prescribing heroin. I commend to Rosemary Byrne the studies that have been carried out in Sweden, New Zealand and the Netherlands in relation to cannabis. That research makes troubling reading. Cannabis is a dangerous drug. Not only can it be a gateway drug to other, more dangerous illegal substances, but it has been linked with various mental illnesses and causes harm to the heart, lungs and immune system.

Tommy Sheridan: Will the member take an intervention?

Miss Goldie: No—I am in the last minute of my speech.

My concern about what the SSP proposes is that it is simply another form of harm reduction. According to the Scottish Parliament information centre, there are no current GP licences in Scotland for prescribing heroin. Mr Henry referred to that fact. Apparently, a few years ago one GP in Scotland had such a licence, but it was never used. Instead of finding another drug for individuals to be parked on in the name of harm reduction, we should examine ways of helping them to lead a drug-free lifestyle.

I thank the Scottish socialists for allowing us the opportunity to debate this issue. I move amendment S2M-4252.1, to leave out from “the predominant” to end and insert:

“we need a drugs strategy which aims to reduce and ultimately eliminate drugs dependency in Scotland and that such a strategy should place an emphasis on early intervention and include a coherent education programme which prioritises abstinence, and further believes that there needs to be a radical change in the help offered to drug addicts, to provide counselling and rehabilitation rather than an over-reliance on methadone.”

09:42

Margo MacDonald (Lothians) (Ind): In moving the amendment in my name, I associate myself with the motion’s intention and with much of the commentary that it contains. I do not wholly approve of commentary in motions, but that is a matter for you, Presiding Officer.

In calling for more resources for long-term residential rehabilitation centres for people who are addicted to hard drugs, for example, the mover of the motion has my total support. I have supported such provision for more than 20 years, but in all that time no Government has provided resources that are adequate to the task of turning heroin users away from their addiction. I heard what Hugh Henry had to say about statistics, but the hard core of hard users remains.

That is not to say that Governments have not put money into what has always been referred to as the war against drugs. They have, but it has never been enough to combat the power of the suppliers who moved into the social gaps that developed as a result of deconstruction of the nuclear family and the long-term destabilising effects of underemployment and unemployment. Although I have specific criticisms of aspects of anti-drug policies that have been pursued by Governments—Labour, Tory and, in this Parliament, coalition—I believe that all of them have pursued those policies with the best of intentions. However, all have failed to achieve their strategic objective, if we define that objective as being to rid society of the destructive power of drug abuse.

Governments, local councils and health boards have been fighting and losing the war against drugs since I chaired the Scottish Drugs Forum in the late 1980s. That is not intended as a criticism of their competence, but much the same mixture of policies has been pursued in other countries, with much the same outcome—an apparently inexorable rise in drug abuse. At this point, it is worth noting the difference in the statistics for drug abuse between the Netherlands and the United Kingdom. I am sure that Stewart Stevenson will agree that there is bound to be a big difference between the statistical use of cannabis in Amsterdam and its use throughout the whole of the Netherlands, because people go to Amsterdam specifically to smoke cannabis. However, the stats for cannabis use in the rest of the country are lower than ours.

Stewart Stevenson: I merely made the point that legalising cannabis in Amsterdam has had no beneficial effect in respect of the use of hard drugs.

Margo MacDonald: I hope that Mr Stevenson accepts that I am simply trying to correct what I believe is a wrong picture of the situation.

We should no longer continue to view and assess the effects of alcohol abuse separately from the effects of abuse of other mood or mind-altering substances. Ten to 15 years ago, dance drugs were all the rage for the bright young things out on the town or up for a rave. However, there has been a change in social attitudes and culture; although those drugs are still available, alcohol is now the substance of first choice and getting legless is now an accepted part of a good night out.

Although alcohol abuse statistics show that the situation is worse in the UK than it is elsewhere, this new fashion in substance abuse is becoming common across Europe. Young people are simply ignoring the laws that govern alcohol, cannabis and cocaine and are mixing and matching those substances to the detriment of their health and of national health service budgets. The relevant laws and, indeed, our general approach to substance abuse are not working, which is why front-line police officers in Strathclyde have said loud and clear that a fundamental reassessment of attitude and policy is required. Those officers, who spoke as members of the Scottish Police Federation, have not—as some sections of the media have reported—advocated immediate and/or wholesale legalisation of drugs. Moreover, neither I nor my amendment seeks such a move. The policies that have been pursued for more than two decades are failing, so I—like those officers—want a wholesale investigation of the reasons for increased abuse of substances including alcohol, and an open-minded

approach to dealing with the situation in the interests of abusers and for the general good.

Prohibition of potentially injurious substances does not have a very good track record. Before anyone refers to the very high rate of public compliance with the smoking ban, I point out that it is much too soon to draw conclusions not on how or where people smoke but on how many fewer people are doing so. As the police officers in Strathclyde have suggested, it is time to think the unthinkable and to probe the feasibility of, for example, supplying heroin legally and under medical supervision to registered addicts. After all, that is what happened not so long ago. The benefits to users' health are obvious. The reduction in the level of criminality that is associated with the illegal supply of drugs is a less predictable element, but we can be pretty sure that a reduction would happen.

There is evidence that the likelihood is higher than was previously thought that heavy cannabis users can suffer permanent damage, but I wonder whether the figures are any worse than the figures for the harm that is done to the health of binge-drinkers and other alcohol abusers, and whether the statistics suggest that the two substances should be approached from the same legal and practical starting point.

As for methadone, should it be viewed as a short or long-term palliative, as a substitute for heroin or as a cheap way of introducing some order into chaotic lives? Can we ever consider viewing crack cocaine and the newer derivative life-destroyers in the same light as legally controlled and supplied substances? I believe that we should not, but if police officers did not have so much work to do on heroin and cocaine, they might have more time and resources to combat the even more dangerous drugs that can be made in a back bedroom.

Before anyone is moved to reply that a reclassification of and a fresh approach to drugs will send out confusing signals and encourage more drug abuse, I freely concede that the Home Office made a pig's ear of its new approach to cannabis. Its model is not the one that we should follow.

Hugh Henry said that the Executive's policy objective was to give people drug-free lives. If that objective does not include alcohol, we will have to do a lot of explaining to the people who now use that substance in much the same way as their parents might have used cannabis. One reason for a fresh examination of attitudes and patterns is that the statistics that have been cited even in this short debate are very confusing, so I urge the Executive to carry out an investigation to clear up the matter. I have posed questions, but I do not

know all the answers. Perhaps we should think about finding them.

I move amendment S2M-4252.2, to leave out from "notes" to end and insert:

"regrets the continuing economic and social cost of alcohol and drug abuse across Scotland and calls on the Scottish Executive to establish a commission of investigation into such misuse."

09:49

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): We will need a much longer debate if we want to find the answers that Margo MacDonald seeks. I hope that, in due course, we will have a full Executive debate on its drug strategy not only for the criminal justice system but for the health service, and that both the Minister for Justice and the Minister for Health and Community Care will take part in it.

There is widespread recognition that an individual's drug problem is a personal crisis. However, the problem also draws in family members and the local community and many—though not all—cases involve a criminal justice element. We have already heard statistics about the number of offences that are committed by people who have such problems. I agree with the point in Mr Stevenson's amendment that such people often receive help through a criminal justice intervention, but the majority of people on drug stabilisation and reduction programmes are either self-referred or have been referred by health professionals. In its consideration of the Police, Public Order and Criminal Justice (Scotland) Bill, the Justice 2 Committee heard that, in Aberdeen, authorities are struggling to accommodate the more than 300 individuals who have not been referred to programmes because of criminal justice considerations.

That situation is replicated throughout Scotland, and I have to say that the same thing is happening with drug treatment and testing orders. When, in February, I met 20 young offenders and drug misusers on a Fairbridge scheme—I know that other members have met Fairbridge representatives—one young man told me that he had been delighted to receive a DTTO from the court and to be released into the community. However, more than three weeks passed before he received his first assessment, and he did not know how long it would be before he was placed on what was likely to be a methadone programme. He still had his habit and, as he saw it, he had no option but to thief to satisfy it. Rosemary Byrne highlighted Tom Wood's comments on housebreaking; I point out that that is one of the trigger offences in the Police, Public Order and Criminal Justice (Scotland) Bill.

In recent months, I have rejected many of the Conservatives' comments on the subject, although I agree that there should be an audit of capacity, and I hope that the academic research that is being carried out into drugs courts and DTTOs will consider capacity issues. After all, capacity is at the heart of the debate not only for the criminal justice system but for our health service.

The Police, Public Order and Criminal Justice (Scotland) Bill will introduce mandatory drug testing and assessment for certain trigger offences. During this week's stage 2 consideration of the bill, Mr Fox from the SSP did not press an amendment to make referral to a programme mandatory. However sympathetic I might be to such an amendment and, indeed, to the Scottish Socialists' motion, I fear that their proposals are currently unworkable and will make the situation worse in one key regard.

Although I support continuation of the methadone stabilisation and reduction programme, I certainly do not consider it to be a panacea. Over the past couple of months, Miss Goldie has repeatedly stated that methadone is part of the problem, rather than part of the solution. The 2005 drug misuse statistics estimate that in 2004 just over 19,000 people were receiving methadone, which is an increase of nearly 3,000 since 2001, and that in 2004-05 409,000 scripts for methadone mix were issued. However, in one of the most extensive ever reviews in Scotland on the effectiveness of treatment for opiate-dependent drug users, the University of Aberdeen found that maintenance programmes that use methadone are effective for all population groups.

That said, I must make it clear that I have also called for the establishment of more residential abstinence programmes, such as those that are offered in my constituency—constituents of many members receive treatment in the Borders—and for pharmacists to have a greater role in working with drug misusers. Young people, in particular, have told me that the health and social work professional whom they trust most is not their doctor, but their pharmacist.

I am glad that Margo MacDonald mentioned alcohol. The shocking figures for drugs are mirrored by shocking figures for alcohol misuse—I will return to that in my summing up. However, as far as both drugs and alcohol are concerned, we must not be distracted by the well-intentioned but flawed proposals in the motion, which seek to give a statutory basis to drug treatment and rehabilitation.

09:54

Susan Deacon (Edinburgh East and Musselburgh) (Lab): I begin by welcoming the tone and tenor of the minister's comments. In particular, I welcome his desire to identify common ground and to bring people together to address some of the most complex and challenging issues that we face. It is encouraging that that tone and tenor have largely been shared around the chamber today. We do not talk much any more about the new politics—it is a bit of an old idea, I guess—but surely to goodness drug misuse must be a policy area in which we share the aspiration for a new politics, with people coming together to address complex and challenging issues. That must be the real test of whether we can put that aspiration into practice, and there are welcome signs in today's short debate that we are doing that.

I heard what Stewart Stevenson had to say about not forming yet another commission, but I have had the privilege of sitting for more than a year on a commission that is dealing with drugs—a UK-wide exercise that was organised by the Royal Society for the encouragement of Arts, Manufactures and Commerce, in London. It has been illuminating and, to some extent, liberating to have the opportunity to consider the matter in some depth, free from the cut and thrust of the normal political and media debate that takes place on the issue. If there is one overriding theme that emerges time and again, it is the need for us to approach the issue with open minds and to be open to fresh thinking.

The Executive deserves congratulations on the significant programme of action and investment that it has undertaken across a wide range of areas, including treatment and rehabilitation, education and awareness, prevention and many other aspects of work on drug misuse. However, it is important that none of us becomes complacent, as the minister has said today.

Can we identify some of the areas in which we can just agree to agree? We all agree that we need to make progress in developing a wider range of services and in speeding up access to more and better treatment and rehab facilities across the country. The SSP's suggestion that there should be a statutory right to such facilities is unworkable and impractical and it is certainly not the way forward, but we all want to make progress in that area.

The debate about classification, legalisation or regulation—call it what you will—is taking place around the globe at the moment, and everybody is grappling with where to draw the lines. It is not the primary job of this Parliament to lead that debate; that is not where we have the powers and responsibilities that would make the greatest

impact, but we should not be frightened, either as individuals or collectively, to engage in the debate on that challenging question.

On methadone, it is the Tories who are in danger of becoming overreliant on it—they are becoming overreliant on methadone as a topic for debate when we talk about drug policy. Everyone from the First Minister down has agreed that we need to review and think carefully about where we are going as far as methadone is concerned, so let us get on with that job, and let us do it sensibly.

I want to highlight some other areas in the short time that is available to me. The topics are not the focus, as such, of today's debate but it is important to mention them. We must not forget the importance of education and awareness, particularly for the younger generation. I know that members all have big mailbags, but I encourage all my colleagues to look at a letter that has arrived in the past few days from the Scottish Drug Enforcement Agency, which tells us about the choices for life programme. Last year, 27,000 primary 7 children attended events in that programme around Scotland. This year, the number will almost double; more than 50,000 youngsters in seven venues across the country will come together for what I consider—having gone to one of the events last year—to be a remarkable education programme. Scotland is leading the way in education and awareness, which gives the lie to the notion that the Scottish Drug Enforcement Agency is just about enforcement. We should applaud its efforts in education and awareness.

I shall say something else about children. We have recently debated a lot—rightly so—on child protection. Many of us have seen at close quarters tragic cases that have occurred in various parts of the country. As other members have done, I plead that as we examine sensitive and complex child protection issues, particularly in relation to the children of drug-misusing parents, we do not make knee-jerk responses. We should, instead, be sensitive to the complexities of every individual family situation. I commend to the minister the work that was done recently by a think tank that was led by the Aberlour Child Care Trust. That is the kind of considered work that should be examined carefully before decisions are reached.

When we are thinking about the impact of drugs on the children of drug-misusing parents, let us also take a preventive approach. Colleagues will know of my interest in sexual and reproductive health, which we do not talk about enough. It is vital that all services that deal with women who use drugs consider fertility and contraception. At present, services and support in that area are patchy, to say the least.

I have been able to touch on only a few issues today—we are all conscious that we are skimming the surface of a complex subject. However, there are welcome signs in today's debate that we in Parliament are willing to take a grown-up approach to the subject. If we can continue to take such an approach, to be open to fresh thinking and to be imaginative and creative in our solutions, we can make progress in tackling one of the biggest challenges that our society faces.

10:00

Ms Maureen Watt (North East Scotland) (SNP): Thank you, Presiding Officer, for allowing me time in this debate to get my first speech over at an early stage.

As Stewart Stevenson did, I want in this debate to draw on my 14 years' experience as a prison visitor at Craiginchies, where I have witnessed the human misery that is suffered by individuals as a result of drug misuse and involvement with drugs. Over the years, I have seen the prison population at Craiginchies change from being predominantly older men on theft and petty criminal charges to the majority of prisoners—some 70 to 80 per cent—being there as a result of drug misuse.

As many members have said, the scourge of drug abuse must not be seen as a party-political matter and speeches today have shown that our common goal is to rid Scotland of its drug culture. However, it is my firm belief that sentencing drug addicts to short sentences that are not long enough seriously to tackle their addictions is not the answer, because far too often we see those addicts back in prison again, sometimes within days. That must really frustrate the police.

Craiginchies has the highest rate of prisoners who have tested positive for drugs, but it has the second-lowest rate of attendance for drug programmes. The provision of methadone substitute is not the answer because the addictive behaviour continues. On a prison visit just last Friday, I listened to one prisoner who had been forcibly removed from Craiginchies to Barlinnie on a Wednesday, despite the fact that he told prison staff that his case was due in court in two days' time and that he was likely to be released on bail. He was released from Barlinnie on the Friday, at 7.30 pm, with a bus ticket to Aberdeen that was valid only for Friday, but by that time all the buses had left. He had to sleep rough in Glasgow and return to Aberdeen at his own expense the next day. Worse than that, he was released without his methadone prescription for the weekend, so as soon as he got back to Aberdeen he was immediately back on heroin and back in prison within a few days.

The benefits to the drug user and to society of becoming drug free greatly outweigh the benefits of controlled drug abuse. Residential rehabilitation has been shown to be the most effective way of facilitating recovery, but it is available only to a tiny proportion of addicts in Scotland. I agree with colleagues who have said that there is not a one-size-fits-all solution. The methadone programme alone costs £12 million for an estimated 20,000 addicts. How much better it would be if that money were redirected to provide residential rehab services. Although there is some provision by the private sector, it is patchy and unregulated. I disagree with Miss Goldie's suggestion—if I heard her correctly—that there should be a central unit for rehabilitation, because it is important that addicts be treated in their own environments, so that they can have family support.

Grampian has the highest number of babies born with drug addictions. The national figure is 6.1 per 1,000 live births, but in the Grampian area it is 11.4 per 1,000 live births. Now that the women's unit in Craiginchies has closed, we do not see those women and they have to go to Cornton Vale, where I am sure there are some human misery stories still to be told.

We need residential units throughout the country. In the north-east we desperately need a publicly funded rehabilitation centre. I am sure that the long-term benefits to drug users and to society as a whole would mean that money had been well spent because it would make us safer and save taxpayers' money. That really would be joined-up government.

10:05

Eleanor Scott (Highlands and Islands) (Green): I whole-heartedly support Rosemary Byrne's motion. I also support comments that have been made by many members, but Rosemary's motion echoes the approach that I and my party take to drugs in that we see it primarily as a health, rather than a justice, issue.

It is as well to put the drug problem in context because, as Margo MacDonald said, there is sometimes hysteria around the issue. In 2004, 356 deaths were directly due to controlled drugs. In the same year, there were 2,052 alcohol-related deaths in Scotland, an estimated 13,000 deaths due to smoking, 865 deaths due to passive smoking and 2,000 deaths from vehicle emissions. Although I want in no way to minimise the adverse effects of some drug use, we should put the scale of the problem in context.

I mentioned the 356 deaths from controlled drugs, but once a drug becomes criminalised it becomes anything but controlled: users are placed outside the control and protection of the law, which

I do not believe best serves the needs of users, their families or their communities. A justice-based approach to tackling drug use will always leave vulnerable users outside the law and take them away from potential help. In contrast, a health-based approach can put the needs of drug users and their families at the heart of the matter as care and rehabilitation, rather than punishment, become the primary objectives. I therefore particularly welcome Rosemary Byrne's motion's mention of prompt treatment and residential care. There is always the potential for abuse of any care provision that involves accommodation, but we should remember that every £1 that is spent on care saves £3 in other social costs of drug abuse. I had the figures when I wrote my speech, but Rosemary's figures, which I am happy to accept, suggest that there are much larger savings.

Cannabis is infinitely less of a public health problem in present-day Scotland than are alcohol or tobacco; members will note that it did not figure in the list of deaths that I read out. I do not encourage its use—far from it—but it should not be a major target for policing when serious drug use, including under-age drinking, merits much more attention from all agencies.

It is interesting to contrast the approach that is taken to drug education, which Susan Deacon mentioned, with the approach that is taken to alcohol education. Of course, alcohol is the drug of choice of most middle-aged people, which is the age group that is most likely to devise education strategies. The approach on alcohol is one of education, moderation and the avoidance of drinking in particularly risky situations such as when driving. We should contrast that with the approach that some people advocate for other drugs, which involves avoiding giving meaningful information and urging people to "just say no". One can imagine how much success a "just say no" approach to alcohol abuse would have. I suspect that in modern Scotland it would have very little success. I believe that the same reasoned approach as is used for alcohol should be used for drugs, because ignorance never affords protection. People must be properly informed, without scaremongering taking place, and they must be supported in making healthy choices. People also have to live in a society in which they develop the hope and self-esteem that makes it likely that they will make the healthy choice. Drug dealers feed off ignorance as much as they feed off poverty and inequality.

I fully support the SSP motion and its emphasis on treating drug misuse as a health issue. I urge the Executive to continue to seek innovative and constructive approaches to drug problems, as was suggested in last December's publication, "Taking Action to Reduce Scotland's Drug-related Deaths"

including monitoring of the heroin-prescribing pilots that are taking place in England.

10:08

Dr Jean Turner (Strathkelvin and Bearsden) (Ind): I heartily agree with everything that Eleanor Scott said, but that is true of almost every speech that I have heard today. I have enjoyed the consensus.

Maureen Watt, our new MSP, reminded me of a very important issue: prison. The sad thing is that people go into prison on one drug and come out on other drugs. I speak from 25 years of experience in general practice, during which I dealt with the problem.

If we were to ask any general practitioner what are the biggest drug problems today, they would say alcohol and smoking. We are trying to do something about smoking, but alcohol is by far the biggest problem.

There is a mixed picture in Glasgow in relation to drug addicts; if the situation were not so complicated, we would probably have found a solution to it by now. After 25 years in general practice, I have no idea why people do it. The problem crosses all socioeconomic groups: the wealthy professionals and the most deprived.

I recall the saddest situation that I came across in a general practice surgery. It involved a young man, whom I first met when his mother pushed him in in his buggy, who was by this point married with his own child. In order to deal with the pressure of his 12-hour shifts, he bought, for £5, a small container of methadone, which had been prescribed for someone else to get them off their drug habit. He started to take methadone once a week, then twice a week. As members might suspect, he got well and truly hooked on it because it is a very addictive drug. General practitioners do not wish to be part of the scene of giving drugs for ever and ever—we do not want to be in competition with the drug pushers. We know that it is often easier to get off drugs than it is to stay off them.

I agree with the comments made by Rosemary Byrne and almost all the members who have spoken. A great deal of debate is required about cannabis. Given that it is a drug, I am afraid of it being called safe. We must discuss seriously what we think about that. I noticed in one patient that cannabis can either stimulate psychosis or produce it of itself, and that can end up in death. That fact must make us think hard about what we decide about cannabis.

I wonder whether we can really know the figures. As I say, in Glasgow, there is a mixed picture. People take alcohol and one or two other

drugs. If we were to estimate how many people drink every day and drink more at the weekends, we might discover that there are more alcoholics than we think. When I see the word “drug”, I always think drugs and alcohol. Can we afford the costs of family breakdown? Can business afford the time and money that absenteeism costs? There are cheap nights at the pub for students, so when they come in the next day they are sleepy and cannot do their work. National health service staff, the police and the fire service have to cope with alcohol intoxicated patients—or, more accurately, alcohol poisoned patients. Such patients would argue about the number of grains of sugar in their tea. They are argumentative, aggressive and violent. I do not know that we should have to put up with such behaviour.

In addition to the terrible costs to the family and the person who wishes to get off drugs, there is another cost. As a GP, I would like to think that when people come to us we could get them treated quickly. Can we afford the liver transplants of the future? Where will we get the livers for transplant? If the current situation continues, we will not have enough of them to cope. More research is required. I support Rosemary Byrne’s motion.

10:13

Jeremy Purvis: I commend Maureen Watt for a powerful maiden speech, which I agree with in its entirety.

We have heard of the McKeganey findings about those who take drugs wanting a drug-free lifestyle. That should be our ambition. However, in response to Margo MacDonald’s point, I say that residential programmes for abstinence, such as those offered at Castle Craig in my constituency, are much more expensive than community options. A statutory duty to offer treatment in seven days would mean that health boards would refer more people to community options and methadone programmes than to residential programmes. That is counterintuitive to the McKeganey findings.

I have always favoured the legalisation of cannabis, not just its decriminalisation. I have often wondered what the benefit is of just decriminalising it. The Parliament has no power to legalise cannabis—

Tommy Sheridan: Will the member take an intervention on that point?

Jeremy Purvis: I am sorry, but I cannot take an intervention because of time constraints.

The Parliament has no power to legalise cannabis and neither my party nor my colleagues support its legalisation. I have read the Dutch

report that was mentioned. I accept that it shows that legalising cannabis does not reduce hard drugs use, but that is because the link between cannabis and hard drugs is overstated. That is one of the reasons why I support the legalisation of cannabis.

In 2004, there were 22,310 drug seizures in Scotland. Of those, nearly 18,000 were for cannabis. Resources are not being directed properly at tackling the drugs that do the greatest harm. It has been many years since devolution, but too many drug and alcohol programmes for young people still have insecure funding.

I do not support a reduction in the classification for chemical drugs such as ecstasy, from which 17 people died in Scotland in 2004, or for the drug from which Scotland will soon, I fear, be under attack from the United States of America—methamphetamine, which is man-made and deeply insidious.

The general registrar tells us that in a year when there were 313 deaths from mental and behavioural disorders due to alcohol, there were 356 deaths due to drugs. Both of those figures have remained stubbornly similar to the figure for people who die from falls, and have consistently been about half the figure for people who die from chronic liver disease.

In my constituency in the Borders, 21 new entrants to drug and alcohol programmes in 2004 were under 15. In greater Glasgow, the figure was 13. We must ensure that the programmes work for those young people.

I recently went on a school visit with Kenny Houston, the police constable who is the drug awareness officer in the Borders. He is motivated and passionate. We went to Langlee primary school and he educated young people about the disadvantages and dangers of drugs as well as the law on drugs and alcohol. I then visited the Reiver project in Galashiels. I am thankful that it is receiving more funding for next year, because there was concern that funding would not be secure over the next two or three years. Young people can be referred to the project or they can refer themselves. In the Borders, we have an innovation that could be followed throughout Scotland: if underage people are caught with alcohol or drugs, they are automatically referred to the Reiver project.

That idea is similar to one in today's Scottish Socialist Party motion, but we cannot compel people to use services, and unless there is sufficient capacity it is unfair to say to people that they have a statutory right to services. It may be that services cannot be provided; but—worse—services that are provided for reasons of expediency or cost, or simply to prevent the law

from being brought in, may not be in the best interests of the people referred. Therefore, although we sympathise with the SSP motion, we cannot support it.

10:17

Bill Aitken (Glasgow) (Con): When I say that the subject matter of this morning's debate is deeply depressing, I in no way seek to criticise any of the speeches. A number of them have been very good and all of them have contained ideas of merit.

In her sincere and measured contribution, Rosemary Byrne raised a number of issues. First, she highlighted the problems of children living with drug-abusing parents, an issue that must surely concern us all. She made the sound point that methadone must be used sparingly and that other less addictive substitutes might well be considered with a view to reducing the number of people who are, to be frank, parked on methadone.

Over the years, I have known Hugh Henry to be a master of understatement. Today he said that we cannot be complacent, which was indeed an understatement. How can we possibly be complacent when we see the human wreckage on the streets of our cities and, indeed, our villages, and when we consider the level of criminality that is caused entirely by addiction? We must have a joined-up approach to both criminal justice and health issues.

We agree that drug abuse is not inevitable, but we must have sympathy with people who have become addicted. Even if it has been their own fault, they should not be cast into the outer darkness.

Margo MacDonald: Will the member take an intervention?

Bill Aitken: I am sorry, Margo, but I do not have time.

We must do something for those people. We have to consider what we are doing at the moment and ask what is working and what is not.

Jeremy Purvis said that a longer debate was required and he was right. He spoke about self-referrals. In his area, such things may happen, but in Glasgow the quickest way for a person to get treatment for drug problems is to commit more and more crimes. If they do that, they will be fast-tracked through the judicial system and will go to the drugs court and be offered immediate assistance. Unfortunately, as recent statistics prove, 53 per cent of people who go through the drugs court in Glasgow do not fulfil their obligations, which is a matter of concern. We support the concept of drugs courts but we must consider ways in which less hardened offenders

who need treatment just as desperately can go before those courts and obtain treatment that will be much more likely to be effective.

I congratulate Maureen Watt on a fine maiden speech; we look forward to hearing more from her in future. She highlighted the way in which drug addiction has changed the profile of people in prison. She made the point—and it is arguable—that short prison sentences do not help. However, what do we do with people who commit more and more crimes—people who may have 12 or 15 cases outstanding, from minor shoplifting to theft by opening lockfast premises—

Ms Byrne: Will the member take an intervention?

Bill Aitken: I am afraid that I cannot; I have no time.

The fact is that with such people we cannot do other than to impose a prison sentence—and we must investigate with the greatest of urgency why many different forms of drugs are so freely available in our institutions.

Of course, there has to be cross-matching with people's needs, but we must consider the effects of drug addiction not only on people themselves and their families, but on wider society. The figures may or may not be accurate, but I refer members to a document that was produced five years ago by the predecessor of the Communities Committee—the Social Inclusion, Housing and Voluntary Sector Committee. The report showed the effects of drug addiction in the poorer areas of Scotland. It made terrifying reading then, and it makes terrifying reading now.

10:21

Mr Kenny MacAskill (Lothians) (SNP): Bill Aitken said that this was a depressing debate, not in its tenor but in its subject. Depressing it may be, but it is vital that we address it. We face a pandemic—if not globally, at least in the western world. It is not avian flu; it is drug abuse—and I accept the point made by others that drug abuse includes alcohol abuse.

This has been a remarkably good debate. Both Stewart Stevenson and Hugh Henry, the minister, said that there was little disagreement with the generalities of Rosemary Byrne's opening speech, although there was some disagreement with the specifics. We accept that this is not simply a criminal justice matter; there are health and social implications too. Stewart Stevenson said that the criminal justice system may be the first interface, but we must also consider health and social justice.

Hugh Henry said that there was no quick fix, and we agree. The opening speakers in the debate set

the tone and they were followed by two excellent speeches from Maureen Watt and Susan Deacon. They made it clear that we must reach a consensus. If we allow the issue to become a political football, we will not serve the parties well and we will certainly not serve the people of Scotland well. We have to find solutions, not simply score points. Maureen Watt's points and anecdotes were clearly ones that we must address.

I accept the premise in the SSP's motion that this is not only a criminal justice issue but a social and a health issue. However, the criminal justice system is where people first become involved. We cannot ignore that—although if we consider only the criminal justice element, we will simply be firefighting rather than looking for solutions. We must consider criminal justice, health and social issues, but we must also consider demand as well as supply. We have to ask why people take drugs and not simply ask how we can get them off drugs or how we can stop them taking drugs in the first place.

This is not simply about enforcement or powers and laws. Anybody who has read Chomsky will know that the United States is a global superpower the likes of which the world has never known. It has resources for the military, for the police, for anti-terrorist force SWAT teams—you name it, they have it. Despite that, the United States cannot deal with the control and supply of drugs. If we read Chomsky, we realise that, of the ingredients of cocaine, around 97 per cent are manufactured in the United States, exported to Colombia, integrated with the principal subject and then imported back into the United States. The United States cannot close its borders—not to Hispanic migrants and not to imported drugs.

As I say, we must consider not only the supply of drugs but the demand. That does not mean that we should take our eyes off the ball and not take any action. Stewart Stevenson was correct to talk about the need to target dealers, but we must examine why people take drugs. I accept that we are living in a society in which there are social causes of drug taking, such as deprivation. It is clear that there is a correlation between the onset of mass unemployment in an area and the arrival of heroin. As well as being taken by yuppies as part of their lifestyle, drugs are taken by people who have no focus in their lives and who see no reason for living. Why is it that when we have never had more material wealth, people feel that their lives are worthless?

The members who mock Dr Carol Craig—who come from all parties—should acknowledge that we are talking not just about material well-being. We must address people's moral values and give them a sense of self-worth. People do not take

drugs purely out of poverty; they inject smack or heroin into their veins because they believe that there is little place for them in society. We must address demand as well as supply, which means not just providing people with material benefits, but giving them a sense of value and self-worth. I am not sure what the solution is or how we can legislate for it, but Dr Carol Craig must be listened to.

10:26

Hugh Henry: I commend to Parliament the amendment in my name, which represents a general statement of intent rather than a specific prescription on every aspect of the issue that has been mentioned during the debate. I welcome the large degree of support that has been expressed for the work that we are doing, the recognition that we are confronted by a significant problem and the willingness to work together that members of all parties have shown. Although we may sometimes disagree on particular issues, I hope that we can work together on our general intent.

There have been some excellent speeches. I commend Maureen Watt for making an excellent and highly thoughtful first speech in the Parliament. It was fascinating to hear her draw on her experience as a prison visitor. I agree that giving drug users short sentences is often not the answer, although I accept Bill Aitken's point that prison must sometimes be an option for those who commit crime persistently.

Ms Byrne: Will the minister give way?

Hugh Henry: I am sorry, but I do not have time.

I agree with what Maureen Watt said, which is why we have introduced drug treatment and testing orders. We want to keep people who have a persistent drug problem out of prison. I was shocked by the example that Maureen Watt gave of the release of a prisoner from Barlinnie. I would certainly like to know more about that case because it demonstrates some of the failings that still exist in the system and the inability of different parts of the system to come together.

In her thoughtful speech, Susan Deacon was right to discuss education and awareness raising. She mentioned the choices for life initiative, in which the Scottish Drug Enforcement Agency is involved. That programme, which is funded largely by the Executive, demonstrates our commitment to educating young people about the dangers of drugs. As a number of members said, simply telling them not to take drugs is not enough. We must make them aware of the wider context and of the consequences of taking drugs. That is the starting point for much of the material in the know the score campaign, the effectiveness of which in providing drugs education and contributing to the

drugs strategy is widely recognised in the United Kingdom and beyond.

We must reduce the use of drugs among children and young people—and I have mentioned the role that education and the provision of public information can play in that—but we must also reduce the harm that is done to children and young people who live in drug-addicted families. We face a huge moral and social dilemma about what to do in such situations. We know that parents want to be with their children and vice versa, but we need to ensure that by allowing that to happen we are not exposing children to dangers that could sometimes be lethal. We must engage in debate on that.

It is proper that we ensure that the number of problematic drug users who get timely and effective treatment increases, which is why we have extended the range of facilities that are available. However, we must keep a sense of perspective in the debate about residential treatment. Although such treatment, when given at the appropriate time, is right for some people, there can be other, equally effective interventions. We must leave that for the experts to determine.

Today's debate on what is a complex subject has been useful. Given the comments that have been made, I want to work with members of all parties and I hope that members of the justice committees will join me in examining what is happening in Glasgow and elsewhere. The more we can educate ourselves about the challenge that is ahead of us, the more we will be able to take effective action to ensure that the problem is dealt with properly.

10:30

Tommy Sheridan (Glasgow) (SSP): The Scottish Socialist Party is much more interested in progress than in consensus or point scoring. In 2000, in the Parliament's previous debating chamber, the SSP argued against the Executive's drugs strategy on the basis that it was primarily criminal justice led, did not take enough cognisance of the need for drug rehabilitation and treatment, did not allocate enough resources to community investment and to providing facilities that would allow young people to engage in positive recreation and did not address the legality of drugs and the continued criminalisation of users. We were lambasted in the Parliament and criticised by the media. We were told that because we called for heroin to be provided on prescription, we were, in effect, drug dealers. In 2000, there were 495 premature deaths from illegal drug use, but in 2004, there were 546 such deaths. In other words, consensus is not working. The Parliament's approach is not dealing with the problems that continue to haunt the communities of Scotland.

Stewart Stevenson: Will the member take an intervention?

Tommy Sheridan: I am sorry, but I do not have time. The member did not have time to take an intervention from me.

We in the SSP believe that it is time to get real about the drug problem in this country. Let us get rid of the idea that simply getting tough and providing the Scottish Drug Enforcement Agency with more money will deal with the problem. If we want an anti-crime strategy, let us consider the legalisation of the drugs the use of which is currently illegal.

People talk about the cost of illegal drug use. The Government says that it is responsible for 54 per cent of robberies, 80 per cent of burglaries, 85 per cent of shoplifting and 95 per cent of street prostitution. That is the result of the criminalisation of users, which is not working. Kenny MacAskill mentioned Chomsky's excellent work and the fact that the most heavily armed country in the world—the country that spends more on its security than any other country in the world—cannot stop the supply of drugs. Let me use an example that is closer to home. Some members have not spent time at Her Majesty's pleasure, but some of us have. Drugs have been available in each of the four prisons in which I have spent time. If we cannot stop the supply of drugs in prison, we will not be able to stop the supply of drugs in society as a whole.

Stewart Stevenson: Will the member give way?

Tommy Sheridan: No—I am sorry.

That is why we must address the legal status of drugs. Jeremy Purvis said that he believes in the legalisation of cannabis; so do we. Here in Scotland we have the power to decriminalise cannabis use by instructing our chief constables to no longer take action on such offences. That is what we should be doing. The figures that Jeremy Purvis gave show that we are involved in an absolute farce. There have been no deaths from cannabis use, but 80 per cent of illegal drug seizures involve cannabis rather than heroin.

Stewart Stevenson *rose—*

Tommy Sheridan: No one in the SSP is arguing that cannabis is a safe drug. There is no such thing as a safe drug. The SSP does not believe in promoting any drug; we are saying that we should stop criminalising the people who choose to use cannabis.

The crux of the motion that is before us today is Rosemary Byrne's call to get rid of the rhetoric on rehab and to introduce some reality on the subject.

Members should read the account of the experience of nine heroin abusers in *The Lennox*

of 14 April. Every single one of them said that, when they sought help, the only available help was for them to be put on methadone. As far as the SSP is concerned, if someone is well off, they will get rehab; if they are poor, they will get methadone. That is not good enough.

A statutory right for users to receive drug treatment needs to be put into our health system. That would mean that proper rehabilitation and treatment would be made available, including residential treatment where appropriate. We are saying not that residential treatment works for everyone or that one cap fits all but that what is available here and now in Scotland is not good enough. To those who ask how we can afford that and who say that the system cannot cope—including members such as Jeremy Purvis, who says that we do not have enough places—I say that we should provide the resources to ensure that the system can cope. Drug misuse is a fundamental problem. If we were to divert the resources that go into criminal enforcement into drug treatment and rehabilitation, we would have the resources, beds and treatment. We can deal with the problem.

In his amendment, Stewart Stevenson says that he supports

“efforts to recover assets from drug barons”.

I say to him that the SSP does not want to take more resources from the drug barons; we want to put them out of business. Back in 2000, we were isolated for saying that, but others now support our position. Lord McCluskey supports it, as does David Hingston, the procurator fiscal for Highlands and Islands. I say to Annabel Goldie that she ought to support her party leader on the matter. In September last year, he was quoted as saying that, as the war on drugs was not working, it was time to legalise drugs. The Tories in Scotland are not only out of touch with the people of Scotland; they are out of touch with their leader.

Strathclyde police has called for the legalisation of drugs. It did so because it wants to break the link between illegal drugs and crime. That is what the Parliament should be doing. If we want to have an anti-crime policy, we should address the illegal drug laws that are part of the problem and not the solution. Scotland should also have proper treatment and rehabilitation for addicts, as of right.

Local Government Pensions

The Deputy Presiding Officer (Murray Tosh):

The next item of business is a debate on motion S2M-4253, in the name of Colin Fox, on local government pensions. Before we proceed to the debate, I will allow a few moments for members to leave and enter the chamber.

Colin Fox (Lothians) (SSP): As long as it is not part of my seven minutes, Presiding Officer.

The Deputy Presiding Officer: No, it is not. Your seven minutes will start when I call you, Mr Fox. That is what we do in these circumstances.

10:38

Colin Fox (Lothians) (SSP): The motion that is before the Parliament was passed unanimously at Labour's Scottish conference in February. I hope, therefore, that Labour members in particular will support their party policy today.

More than 1 million workers went on strike on 28 March in the biggest industrial dispute that Britain has seen for decades. They made clear to all their anger and determination to defend their pension rights from attack. I was on the picket line that day, as were all my Scottish Socialist Party colleagues. I also attended the Edinburgh strike rally. I congratulate all the workers across Britain who took part in that day of action. The Scottish Socialist Party stands proudly alongside local government workers in this dispute. I am grateful that it has been noted that the SSP is the only political party to back the strike, attend the picket lines and support the strike rallies.

The question that 1.5 million local government workers continue to ask is: why are our pensions under attack at all? The Government and employers argue that, as everyone is living longer and the baby-boom generation is soon to retire, we face a demographic time bomb and a pension fund into which too few people are paying and out of which too many people will take. Indeed, the recent report from Adair Turner proposed that the way around the problem is for workers to pay more of their wages into the fund, to work longer—perhaps to 68 or 70—and to expect far less of a pension in return.

The SSP rejects that proposition. We do not accept that the money does not exist to pay a decent pension to everyone when they retire. The local government pension scheme is perfectly capable of meeting its future obligations in Scotland. We also reject the notion that the reward for better health and greater longevity is that people work longer and expect less on retirement—when it finally comes. Perhaps uniquely in the debate, the SSP retains the view

that the retirement age should be reduced, not increased. The best way for working people to celebrate living longer is to spend their retirement in dignity and free from poverty. That is what people want.

At every opportunity that is afforded to them, the Chancellor of the Exchequer and Labour members stand up and tell us that Britain is having the longest period of uninterrupted economic growth it has ever had. We can see clearly the signs that the rich and the wealthy are benefiting; those signs are all around us. However, Labour members cannot applaud record profits and economic boom only to turn round and say that the money does not exist for the poorest among us to expect even a meagre pension.

Frankly, the facts and figures do not back up the argument that Labour members make. Britain spends only 5.5 per cent of its gross domestic product on pensions, whereas the average across the European Union is 11 per cent. The average pension for a member of the local government pension scheme is £3,800 per annum. The average pension for working-class women, who represent the overwhelming majority of scheme members, is £31 per week, which is a ludicrous and scandalous sum of money.

I remind members that the state pension is £87 a week, which is just 20 per cent of average earnings. On the other hand, the average company director retires at 60—if not 55—and takes home a pension that is 26 times that of the average local government worker. Last year, the combined profit of the banks in Britain was £35 billion and the combined profit of the oil companies BP and Shell was £25 billion.

The cuts that Labour made to corporation tax resulted in an £11 billion loss to pension funds. The pension holidays that the top FTSE 100 companies took between 1988 and 2002 resulted in a loss of £28 billion from their pension funds. It is ridiculous to say that the money does not exist to pay for decent pensions or to allow people to retire at 60.

The mood of working people is angry and betrayed. They are determined to fight for what is theirs. I remind members that pensions were not granted by philanthropic Governments or employers; they were fought for and won by previous generations of working people. Indeed, in recent years, by not matching contributions, by abandoning final salary schemes and—in some cases—by bankrupting pension schemes altogether, employers have ratted on their side of the deal.

The issues at stake in the debate could hardly be bigger. The rule of 85 is not the real issue; in some ways, it is the thin end of the wedge. The

Government is using a relatively unused clause of the local government pension scheme as a precursor to wider attacks on pensions. It is iniquitous that local government pension scheme members are being denied the right to retire at 60 when that right is afforded to teachers, civil servants and other public pension scheme members.

The Scottish Executive has said that the legal advice that it has been given is that the rule of 85 contravenes European law. I ask the Executive again—as many members have done recently—to put into the public domain today the advice that it was given. The Executive's argument is nothing more than a fig leaf to cover its intention to make further attacks on local government pensions.

The political choice on the matter is clear: it is a question of whether current pension rights are honoured and we go forward to improve them, or employers rat on their obligations and take away from working people that which they have worked for and earned.

Some on the right pour scorn on the pension rights of local government workers, and say that those rights are better than those of private sector workers. The people who bleat the most tend to be company directors such as Digby Jones, the director general of the Confederation of British Industry, who will retire at 60 with a half a million pound pay-off and a £90,000 pension. That is utter hypocrisy.

Workers in all sectors deserve better pensions, and I remind them that we get nothing in this life without fighting for it. The lesson from local government workers' pensions for those who do not have similar schemes is that workers should join a union and campaign to retire at 60 and enjoy a full and decent retirement.

The Scottish Socialist Party rejects new Labour's manifesto of pay more, work longer and expect less in return. We support index-linked pensions and a £150-a-week pension for all now, rising to two thirds of the average wage. The Scottish Socialist Party hopes that a negotiated settlement that is acceptable to union members can be agreed in the dispute, but it must meet certain demands, maintain the right to retire at 60, not reduce the present pension rights and address the diabolical level of pensions that are paid out to the vast majority of local government pension scheme members.

I move,

That the Parliament notes with concern the Scottish Executive's announcement on 17 January 2006 to abolish the Rule of 85 for members of the local government Pension Scheme (LGPS) in Scotland; recognises that the proposed changes will have a detrimental impact on many working people who support vital public services, often on low wages, in a wide range of occupations in Scotland,

including workers in local government, the Environment Agency, police support, cleaning and waste companies, the voluntary sector, bus companies, higher education and others; notes that this decision means that LGPS members are denied the same rights and protections as members of other public sector pension schemes which have agreed to allow retirement at the age of 60 on a full pension; further notes recent comments made by EU Commissioners on this issue indicating that changes to the Rule of 85 would not necessarily be a requirement under EU legislation and previous assurances given to COSLA and the relevant trade unions that the Rule of 85 for members of the LGPS in Scotland would be retained; recognises that members of the LGPS contribute to the scheme and want to ensure that there is a viable and sustainable future for it; further recognises that the financial standing of Scotland's LGPS is significantly healthier than schemes elsewhere in the UK and therefore calls for a distinctive approach, and further calls on the Executive to review and publish its legal advice regarding the Rule of 85 and to work with trade unions and COSLA to find a settlement which protects local government workers' pension rights.

10:45

The Minister for Finance and Public Service Reform (Mr Tom McCabe): The debate provides a welcome opportunity to set out once again the Executive's position on our legal obligations under European law and our strong desire to ensure that local government workers receive fair and equitable treatment. It also provides a welcome opportunity to repudiate the carpetbagging nonsense that we have heard from Mr Fox. Money is not the driver. Why would it be the driver for removing what Mr Fox has just described as a little-used benefit? The firm legal advice that is available to us, which we have tested extensively, tells us that the rule of 85 in the local government pension scheme breaches the European directive on equal treatment in employment and occupation. Without the European directive there would be no legal impediment to keeping the rule.

Brian Adam (Aberdeen North) (SNP): Will the minister give way on that point?

Mr McCabe: Not at the moment.

It would be easier if the legal position were different. We are fully aware that it creates an anomalous situation for some local government workers, particularly when compared with recently negotiated conditions in other public sector pension schemes. I have said previously and I say again that we are earnestly seeking a fair and equitable solution that will stand up to legal challenge. If we simply sought a quiet life or popularity, we might prefer to ignore the legal advice and do nothing. However, to do so would mean, in our view, that local government workers who felt that their position had been protected would be vulnerable to a legal challenge that would effectively strip away the rule of 85. We are not prepared to mislead, be disingenuous or

ignore our legal obligations in the interests of short-term popularity.

Mr John Swinney (North Tayside) (SNP): Does the minister accept that the directive contains a number of provisions to exempt particular pension schemes? Does he not consider that paragraph 5(1) of schedule 2 to the consultation draft of the Employment Equality (Age) Regulations 2006 would provide an exemption because it deems different approaches on age and length of service to be permissible under the directive?

Mr McCabe: I am aware of various articles of the directive and appreciate the fact that Mr Swinney draws it to our attention. It is clear that our legal advisers are equally aware of those articles. So far, we have not been able to provide a legal solution that allows us to apply a derogation that our legal advisers believe would stand up to legal challenge. I stress again that we do not want to give local government workers the impression that we have found a solution when, in reality, the solution would be subject to legal challenge and they would ultimately lose their position in any event.

The Scottish Executive is as committed as the trade unions and the employers—the Convention of Scottish Local Authorities—to negotiating a new local government pension scheme from 2008, and we are clear about our aims. First, the scheme should be sustainable and affordable. Secondly, and just as important, it should focus more directly on improving conditions for women and lower-paid workers. I have instructed the officials of the Scottish Public Pensions Agency to work closely with the trade unions and the employers in the tripartite group to seek a solution on which local government workers can depend. The next meeting of the tripartite group is tomorrow.

Colin Fox: The minister says that he is earnestly seeking an honest solution to the dispute, which everybody welcomes. Will he guarantee that the honest and earnestly sought solution will seek to protect the local government workers' current pension rights, which are at the centre of the dispute?

Mr McCabe: That is, of course, exactly what we are trying to do. I have already made that perfectly clear. In case it was not picked up, I will say it again: without the European directive there would be no legal impediment to retaining the rule of 85, but the directive exists. The rule applies only to a relatively small number of people whose age and service combines to reach a total of 85. However, the directive removes that condition. We are aware that that is an anomalous situation. We have acknowledged that publicly and I am happy to do so again. We are searching for a solution and will continue to do so.

We know that there are differences in legal opinion and I have instructed my legal team to explore them actively. I have made it clear to our officials in the Scottish Public Pensions Agency that we need a Scottish solution and that that solution should happily and most desirably conjoin with any United Kingdom solution, but it does not necessarily have to do so.

I am pleased that tomorrow's meeting will take place against the background of the suspension of industrial action. I urge trade union leaders to convey to their members that an earnest and sincere search is going on in Scotland to find a solution—which we would like to find sooner rather than later—but also to bear in mind that the directive will not take effect until October 2006.

I assure the employers, the trade unions and, most important, the local government workers that we will use the coming days and weeks to work closely with the employers and the trade unions to find a solution that is fair, equitable and legally robust.

I move amendment S2M-4253.1, to leave out from “with concern” to end and insert:

“the current issues surrounding the future of the Local Government Pension Scheme (LGPS); recognises that these issues will impact on a wide range of public sector workers; recognises that members of the LGPS contribute to this scheme and want to ensure that there is a viable and sustainable future for it; notes that the correct manner for dealing with the consequences of any changes to the LGPS, or any disagreement in legal opinion in respect of it, is through open and fair discussion with trade unions, employers and the Scottish Public Pensions Agency, and therefore welcomes the decision of the trade unions to suspend strike action as a result of the constructive dialogue which is currently taking place.”

10:52

Mr John Swinney (North Tayside) (SNP): The minister said in his speech that he was committed to finding a negotiated solution. I welcome those remarks and the fact that the discussions can take place without the threat of strike action, but the minister's interest in a negotiated solution was not apparent when he answered Carolyn Leckie's parliamentary question on 17 January and unilaterally announced in the middle of a negotiation that involved all parties that the Government's view was that the rule of 85 had to be abolished. It did not strike me as sensible and measured negotiation for the Government to announce halfway through a dialogue with various parties that it had come to a conclusion that was not to the liking of the trade unions.

Mr McCabe: This might strike some people as pretty obvious, but it was impossible to begin negotiations to try to find a replacement for the benefit until we had declared our intentions. Therefore, we declared our intentions with the sole

aim of moving on to negotiate some form of replacement for the rule of 85 for local government workers.

Mr Swinney: Mr McCabe makes my point for me. The Government had concluded that the rule of 85 was all over and done with, but I do not take that view. If we have an issue with the rule, we should not discuss its replacement with trade unions, but should discuss with the European Commission whether there are issues with the rule of 85 that have to be addressed. We should not hoist up the white flag and say that it is all over and that we have to abandon the scheme.

The minister said that he must have a robust solution that is not vulnerable to legal challenge. He is right, but there is a fine line between those careful remarks about ensuring that we have a robust legal position and scaring people that if they defend their existing pension scheme arrangements in the rule of 85 they might be legally vulnerable in future.

There are competing legal opinions on the subject. In my intervention on the minister, I cited paragraph 5(1) of schedule 2 to the consultation draft of the Employment Equality (Age) Regulations 2006, which would provide for different pension schemes for employees of different ages and with different lengths of service. If the rule of 85 is not about that and if paragraph 5(1) would not encompass it, I do not know what the exemption is designed to achieve. The Commissioner for Employment, Social Affairs and Equal Opportunities, Mr Špidla, pointed out to my colleague, Ian Hudghton MEP:

“Article 6(2) of the Directive allows Member States to provide that the fixing for occupational pension schemes of ages for admission or entitlement to benefit “

on the basis of age and length of service

“does not amount to discrimination on grounds of age.”

That comes from a European parliamentary answer given by a member of the European Commission, which I would have thought is fundamental to our discussion.

Some weeks ago, the minister was quoted—sorry, I should not say that the minister was quoted, but what he said did lead to a front page headline in *The Scotsman* that read “McCabe folds on pensions”. That was a rather ungracious headline, but the article included the interesting comment that the minister was seeking a derogation from the directive to preserve the rule of 85. Unless I have missed something in the letters pages of *The Scotsman*, that line has not been corrected by the minister. On 30 March I asked the First Minister whether the Government was seeking a derogation. I hope that Mr McCabe or Mr Lyon, if he is summing up, will be clear about whether the Government is seeking a

derogation or whether the position that Mr McCabe outlined is the case—that is, that the Government does not support the rule of 85 and thinks that we have to work on something else.

Mr McCabe rose—

Mr Swinney: I would love to take an intervention, but the Presiding Officer would probably contemplate throwing me out, and not for the first time.

It is important for the minister to confirm whether the Government is seeking a derogation. If it is, we are making genuine progress. There may be ways of preserving what I think is an important element of the local government pension scheme.

10:56

Mr David Davidson (North East Scotland) (Con): As Colin Fox rightly said, relatively few people are affected by the change, so we have to ask why we had a strike. The answer is that the unions and people who work in local government find it difficult to get ministers to address the issues about which they feel strongly. I simply say—and I have said it before—that I do not think that the minister has done the Executive any favours in his handling of the situation, which has caused grief and distress to many people who are dependent on public services. They are the innocent victims.

The minister's amendment states that he is looking for

“a viable and sustainable future”

for the local government pension scheme and that he wants an

“open and fair discussion”.

If that is the case, why on earth was there apparently a unilateral decision by Government to change the rules without any such discussion? I hope that the minister will answer that question.

Mr McCabe: I point out to the member that the question of the rule of 85 was first mentioned in a consultation document in 2004.

Mr Davidson: In that case, perhaps the minister will tell us what progress he has made with the discussions in the time leading up to today, but that is another point, presumably.

Sustainability is the issue, but of course it is not just the Scottish Executive and local government that are having difficulties with pensions. The chancellor, Gordon Brown, has attacked both public and private sector pensions annually to the tune of £5 billion or so. Many unions have pension schemes that are managed by the City and they have been attacked. It is almost as if the Labour Party—both south of the border and in Scotland—

is unwilling to help people to look after their future concerns when they retire and to have some comfort to look forward to.

The minister dealt with the legal position, although it would have saved some angst if he had said what he said a wee bit earlier. It is interesting that 29 members signed Janis Hughes's motion on the local government pension scheme, which also called for

"open and fair discussion with staff"

and called on the Scottish Executive

"to initiate urgent discussions with COSLA and the relevant trade unions to achieve a solution agreeable to all."

Of the 29 members who signed the motion, 24 were Labour members. That shows that Labour members think that the handling of the matter has not been terribly clever.

I am not going to score brownie points against the minister, because we agree that any pension system should be fair, understood, agreed and sustainable, whether it is in the public sector or the private sector. It is important that we look to the future. We have to address the fact that we have an aging population. We have to ensure that people have some dignity when they retire and that people can expect that their savings will be worth something when they retire. If people contribute to a pension, they have a right to expect that their share of the pension fund will be sustained.

I hope that the minister meant everything he said about sustainability. If that is what he is seeking to achieve, we support his position. Equally, however, we have to consider who pays for local government pensions. The council tax payer is being squeezed badly every day of the year by the Scottish Executive, with huge increases in council tax. Will council tax payers pick up the cost of any changes to the pension scheme? It would be helpful if the minister explained when he winds up how pensions will be funded in future.

I am grateful to the unions for taking the sensible stance of saying that they will not strike in the meantime but will get around the table. I encourage the minister to join them.

11:00

Mr Andrew Arbuckle (Mid Scotland and Fife) (LD): Before I arrived in the Parliament I did not fully appreciate the meaning of the phrase "the luxury of opposition". However, we have a prime example of it this morning. The SSP motion might have been intended to grab a headline or two, but the negotiating moves by the unions and by local and national Government both north and south of the border have left the motion providing little

more than the proverbial chip-wrapping paper, which is where all yesterday's news ends up.

As far as the Liberal Democrats are concerned, we need to stay within the law in dealing with the rule of 85. As the minister stated, doing otherwise could expose employees to financial claims. A legal challenge to the directive is being considered in England and, if it is successful, we will support the outcome. At the same time, the Liberal Democrats support the Scottish Executive's moves to resolve the issue with a Scottish solution through constructive dialogue. That includes consideration of the best way to introduce transitional protection measures. Despite facing bigger financial hurdles down in England, Richard Kemp, the leader of the Liberal Democrat negotiating team there, stated last week that he was sure that there could be a successful outcome to the negotiations that recognised both the increased longevity of staff and the rights of LGPS members.

It is important not to get the rule of 85 out of proportion. Although there are many thousands of people in the scheme, most of those who take early retirement do so under restructuring or early retirement packages. As other speakers have said, the rule is little used. In Scotland, figures for the past five years show that less than a quarter of employees leaving local authorities accessed the rule of 85.

Carolyn Leckie (Central Scotland) (SSP): I am sure that Labour members will be interested to know that the member thinks that a Labour party motion is chip wrapping, but they can take that up with him. There is little evidence that members understand the effect of abolishing the rule of 85, which will remove local government workers' right to retire at 60 on their full pension. If the Executive's proposals stand, they will lose a third of their pension. Does Mr Arbuckle support that?

Mr Arbuckle: That was a premature intervention, if I may say so. I will come to that point.

We should remember that the rule of 85 is divisive. I would have thought that the SSP in particular would have recognised that in its motion. In its current state, the rule discriminates against many people, especially women who have had breaks in their working life. The exclusion of part-time workers from the local government pension scheme until 1993 was also divisive. One pension holder in five suffers because of a broken work record.

Today's debate is part of a much bigger unsolved problem with pensions that the UK Government—for whatever reason—has not yet dealt with fully. At Westminster, the Liberal Democrats' pensions spokesman, David Laws,

referred to that two months ago when he described the UK Government's attitude to pensions as a "dog's dinner". I agree with his view that there needs to be a coherent and comprehensive policy on long-term pension reform and that it should be introduced as quickly as possible. Any delay in putting through properly costed reform of pensions would be unfair, not only to those who are on the brink of receiving their retirement payments but to those who have to pay for them.

The Deputy Presiding Officer (Trish Godman): We move to the open debate. I want to fit everyone in, so each speaker will have a tight four minutes.

11:05

Janis Hughes (Glasgow Rutherglen) (Lab): We are debating an important issue. The solidarity that the local government workers who went on strike on 28 March showed is testament to the strength of feeling about the matter. The strike reached into all parts of Scottish life and I am sure that every one of us felt its effects in some way. It reminded us how vital the workers who are involved are. A decision to strike is never taken lightly, particularly when many of the workers involved have low-paid jobs.

As Mr Davidson kindly reminded us, I lodged in January a motion that called on the Executive to initiate urgent discussions with COSLA and the trade unions to find a solution to the pensions dispute. As he said, that motion attracted widespread support from across the parties and showed the level of support for such discussions and for finding a satisfactory solution to the problem.

As I said, many local government workers have low-paid jobs, and the salaries of many are less than they would be entitled to expect in the private sector. The local government pension scheme has often been held up as an incentive for people to stay in public service when they could easily find more financially rewarding employment elsewhere.

The scheme covers far more people than just those who work directly for local authorities; it includes police support staff, higher and further education staff and staff in the community and voluntary sector. It is particularly hard for members of the scheme to accept that they will no longer be protected when they consider the agreement that was reached last October to protect other public sector workers. I accept the need for serious pension reform, but it is unfair that employers should be able to move the goalposts after an employee has started to pay into a scheme without putting in place another mechanism.

I worked in the national health service for 20 years and I will be entitled to an NHS pension, which is protected. That is not the case with local government pensions, which is surely wrong. It may be true that the rule of 85 has not affected many people in recent years, but it is unfair to change the provisions of the scheme for those who have already signed up without providing alternative provision. For those reasons, I support local government workers on the matter.

However, as today's debate takes place precisely when delicate negotiations are being undertaken, it is unhelpful. Of course I have every sympathy with the issue at stake, but the best way at this time to find an agreeable long-term solution is through negotiation. Resolution will be achieved only by all the parties involved reaching agreement, not by any discussion in the Parliament.

Tommy Sheridan (Glasgow) (SSP): Will the member take an intervention?

Janis Hughes: No. We have already heard from Colin Fox.

The minister said that he has worked with and listened to all the parties involved in the argument. I sincerely hope that he continues to do that. Only by continuing dialogue and meaningful negotiation will a solution that is acceptable to all be achieved. I sincerely hope that that happens sooner rather than later, as the minister said. I welcome the trade unions' decision to suspend further strike action in the meantime.

11:08

Brian Adam (Aberdeen North) (SNP): A public debate about pensions in general is taking place. Some people have erroneously tried to draw a distinction between circumstances in the private sector and those in the public sector. Public sector pensions are there to be defended and it is right to defend them. Members of such schemes contribute towards their pensions.

Colin Fox was a little wide of the mark when he referred to private companies' profits. If private companies made no profits and dividends were not paid into pension schemes and capital values did not increase, schemes would be in crisis, so profits are required.

Colin Fox: Will the member take an intervention?

Brian Adam: Colin Fox has had his opportunity to speak.

The local government pension scheme is real, unlike the NHS pension scheme, to which Janis Hughes referred, which is paid for from current revenue and not from investment in funds. In that

sense, there is a distinction between public and private sector pensions. However, the local government pension scheme and several other public sector pension schemes are real pension schemes in which people invest money for their future. That money is invested in Government stocks and in the stock market, so we need a successful economy to maintain those schemes.

The health of pension schemes north and south of the border could be different for a variety of reasons. However, all schemes have been exposed to Gordon Brown's raids through taxation changes. Local authorities north and south of the border might have taken different pension holidays—perhaps the deputy minister could advise us about that. Private pension schemes have suffered because companies took pension holidays and failed to contribute when stock markets and dividends were high; at least part of the pensions problem results from that. The other main cause of the problem is that Gordon Brown has chosen to have an on-going raid on the pension funds for all our futures.

I am concerned that we have missed an opportunity to engage with European Union law. I would like the deputy minister to give us a clear-cut answer on whether a derogation for the rule of 85 has been sought from the European Commission. That deserves a clear-cut answer of yes or no. If the answer is yes, unanimous support will be given. If the answer is no, we will be extremely disappointed and we will have to divide, perhaps unnecessarily.

Failing to engage properly with the processes that relate to directives from the European Commission ill behoves us all. The issue should have been spotted in advance and we should never have reached the current point. I do not believe that anyone who is involved in the tripartite talks wanted to reach this point. Had we been more aware of what was coming from the European directive, it could have been headed off. We all need to engage with the stuff that comes out of Europe, because it has consequences, which are often unintended.

11:12

Mark Ballard (Lothians) (Green): Public sector workers have never expected high wages, but they do expect their pensions to be safe. Local government workers were therefore right to be outraged by the proposal to scrap the rule of 85 and give existing LGPS members only limited protection. Members of the pension scheme faced having to keep working until they were 65, even though they had paid the required proportion of their salary into the scheme and planned for their retirement for years.

It is hard to imagine the Executive making a bigger mess of things. First, as we have heard, it sabotaged on-going negotiations between COSLA and the public service unions by stating that the rule of 85 would be scrapped and insisting that it had no choice under EU law. If that is the case, why did Katharina von Schnurbein, the EU spokeswoman on employment, social affairs and equal opportunities, state categorically that the LGPS's existing terms were entirely compatible with the proposed directive on equal working conditions?

As has been said, we have seen probably the biggest single-day strike since 1926. The Executive went into back-flip mode and claimed that it would seek a derogation from a law that I would say is in no danger of being broken. The Executive's behaviour from start to finish has been a humiliating farce. The Executive must commit to supporting decent pensions for local government workers and to preserving their rights and their flexibility to take early retirement.

As we have heard, the debate must be seen in the context of wider pension issues and the erosion of pensions in the public and private sectors. The Blairite agenda has been to push people towards greater individual reliance on the vagaries of the stock market. That gambles with people's futures. We have seen the impact of the stock market's recent poor performance on individuals who are retiring, the impact of Equitable Life's performance and the high-profile collapse of several company pension schemes. That we still allow businesses to gamble with their employees' pension funds seems to be inconceivable, but time and again when a business goes bust, the pension scheme goes with it, leaving workers high and dry after many years of paying for their retirement. The ghost of Robert Maxwell still seems to haunt British boardrooms. That is why it is important for the state system to remain the bedrock for pensions in this country despite the attempts of successive Governments to whittle it down and undermine it.

Our current state pension scheme is based on the system that was established in 1911. It is therefore time to rethink what we are doing. We no longer live in a world in which there is full employment for men and in which women tend to stay at home. In 1911, life expectancy at birth was 51 for men and 55 for women. We still base our pension scheme on those assumptions.

Andrew Arbuckle was right to say that it is time to grasp the nettle and implement proper pensions reform. We need to introduce a citizens pension as the first stage towards having a general citizens income for all. We must get rid of the complex means-testing morass of the state pension scheme with its in-built discrimination against

couples, disincentives to save and failure to maintain living standards. I look forward to the day on which this Parliament considers how we can introduce a pension scheme that is fit for the future in place of a scheme that is based on decisions that were taken in 1911. That is what we owe pensioners for the future.

11:16

Paul Martin (Glasgow Springburn) (Lab): Like many members, I think that we would be doing a great disservice to our constituents who are members of the local government pension scheme if we did not seek to form a cohesive vision of the way forward. Members have made some suggestions, but we should also take into account the skills of many shop stewards in the trade union movement and ensure that there is co-operation with the tripartite group to which the minister referred.

I have reflected on the representations about the loss of service conditions that various unions have made. I have been a member of the Labour Party for 23 years, since I was 16, and am proud that we have ensured that conditions have been taken into consideration over the years. I always respect the rights of individuals to make representations to their elected members. Many of us have received representations on the issue that we are discussing and we should give measured consideration to those representations as well as show leadership.

Since members of the Scottish Parliament were sworn in on 6 May 1999, the issue of compliance with European law has touched the Parliament in many areas—it has affected fishing quotas and housing issues, for example. However, too often, some members think that only the Executive is responsible for considering compliance with European law. All of us must ensure that such compliance is considered. Members have said in the chamber that we should ignore compliance with European law. Some have said that they do not care about it in the first place. Some have said that they do not want to be part of the European Union and that we simply should not care about compliance at all.

Tommy Sheridan: Paul Martin and I are members of the Local Government and Transport Committee. Does he agree that compliance with European legislation on the provision of lifeline ferry services has been damaging to the people of Scotland?

Paul Martin: In the minutes that are available to me, I will focus on the local government pension scheme; Tommy Sheridan and I can discuss the issue that he has raised when there is an opportunity to do so in the Local Government and

Transport Committee. We should not ignore whether we are complying with European law, but a wider debate on compliance is needed. We should reflect on issues relating to compliance after the debate.

I welcome the fact that the minister has committed himself to having an open dialogue, but members seem to be concerned when we discuss the possibility of reforming the local government pension scheme. I am not frightened of reform. It would be interesting to find out how many of my constituents have benefited from the rule of 85. Not many directors of education or people who are on salary scales that have led to their benefiting from the rule of 85 live in Glasgow Springburn. I would welcome reform of the rule of 85 and the involvement in that reform of domestic assistants and the many other workers in my constituency who have not benefited from the rule of 85. We should not be frightened of reform.

Colin Fox: Will the member take an intervention?

Paul Martin: I do not have enough time.

In conclusion, I am proud of my party's links to the trade union movement, which will continue. We have delivered the minimum wage, which was a pipe dream for many union members over the years. I assure union members that we will work closely with them and that we will ensure that Executive ministers work closely with them to resolve the issue.

11:21

Bill Aitken (Glasgow) (Con): It goes without saying that pensions are an extremely important and emotive issue, so it is hardly surprising that the trade unions have been concerned about events in the past few months. However, it is important to keep the matter in perspective. Tom McCabe was correct to say that the number of people involved is quite small. In Glasgow, for example, only 51 people in a local authority that employs 36,000 people have sought early retirement since 2001. That said, it is understandable from the trade unions' perspective that, as people wish to retire earlier and the age make-up of the population changes, there should be concerns about changes. I understand the concerns that COSLA and the trade unions have expressed.

The minister has brought some difficulties on to his own shoulders. His somewhat abrasive negotiating style has certainly not helped. In turn, he might think that the matter has been complicated totally unnecessarily by the actions of his colleague down south, the Chancellor of the Exchequer, who, as Brian Adam properly pointed out, has made a sustained and prolonged raid on

pension funds that has removed from them some £38 billion. That is profoundly unhelpful.

Andrew Arbuckle was correct to say that we must consider pensions overall because pensions will become an increasingly important issue in the years ahead. There seems to be a lack of political will to face up to what the problems are likely to be.

I am familiar with the local government pension fund because one of my duties in Glasgow City Council was to sit on a committee of three that administered the Strathclyde pension fund. I assure members that the responsibility that was involved was heavy. Mark Ballard seemed to suggest that we should abolish the stock market. I assure him that the decisions that were taken on stock market investments were taken after the deepest consideration, because such decisions impact heavily on the lives of many people whose means in retirement will not be significant. There are issues in that context. It is clear that we must be careful.

Tom McCabe was correct to say that considerable legal complexities are involved. Notwithstanding the comments of the estimable Frau von Schnurbein, the issue is not simple. The Executive is correct to want to seek its own legal advice and we look forward to seeing what is determined, as it is vital. It would not be proper to do anything today that is likely to pre-empt the results of that inquiry.

In the end, we need a scheme that is fair, sustainable, affordable and not likely to cause us difficulties with the European Commission as a result of breaching European rules. We support the Executive's amendment.

11:24

Mr Swinney: Paul Martin made the important point that compliance with EU directives is an issue for all of us. It is not just for the Government but for all members to exercise our responsibilities properly. The directive in question emerged from the European Council on 27 November 2000, so we cannot blame Westminster for the current situation; it was our responsibility to scrutinise it. I would prefer us to be sitting on the European Council and putting a Scottish voice from a Scottish perspective into the discussions rather than relying on the United Kingdom Government to do that.

That brings me to Andrew Arbuckle's comment that the UK Government is making a dog's dinner of pensions issues. As the Executive's approach is exactly the same as that of the UK Government on the local government pension scheme, I assume that the Executive's position is, similarly, a dog's dinner in Mr Arbuckle's view. If it is not, that will be

another case of that terrible word that begins with H and ends with Y in which Mr Arbuckle is such a specialist, especially on the issue of Tay road bridge tolls, to give another example.

Janis Hughes made an important point of principle on pension matters, which is a substantial point on which we must reflect in our discussions. When an individual contributes to a pension scheme, we cannot change the basis on which that contribution is made without an appropriate transitional mechanism and due support for the arrangements to which that individual has contractually signed up. I have some experience of the subject from my former employment, and I believe that any private pension company that decided unilaterally to change the terms of somebody's pension entitlement would be condemned by every political party in the Parliament for breach of the terms and conditions of the contract into which the individual had entered. Therefore, I do not think that it is reasonable for the Government to take an approach that undermines the basis on which an individual has signed up to a certain pension scheme.

Mark Ballard referred to the comments that were made by the EU spokesperson on 22 January. She said:

"The directive has no influence on pension value or pension age. It is completely up to the member state. If they think it is reasonable for people to retire at 60, under EU law that is perfectly legal."

I accept that that is not a detailed legal opinion, but there are plenty of detailed legal opinions that support the point of view of the EU spokesperson. In the interests of open scrutiny of this point, we need to see all the legal opinions on which the Government is relying. If it is possible for the Attorney General to publish perhaps the most significant legal opinion of all time, in relation to the decision to go to war with Iraq, it is important that we have at our disposal the legal opinion on this issue, which is important to the members of the local government pension scheme albeit that it is of a slightly different order to the war in Iraq.

In the parliamentary answer that I quoted earlier from Mr Špidla of the European Commission to my colleague Ian Hudghton, the commissioner said:

"The Commission has had no meetings with the Scottish Executive on the '85 year rule' ... nor has it had any contact with members of the Scottish Executive on this matter."

The sooner that the Scottish Executive starts talking to the European Commission about the issue in detail, to protect the interests of the members of the local government pension scheme, the better. The approach that has been taken by the Government is cack-handed. There needs to be a reasoned negotiation based on open dialogue, with the publication of legal

opinions. We must have swift action from the Executive on that point.

11:28

The Deputy Minister for Finance, Public Service Reform and Parliamentary Business (George Lyon): This is an extremely important debate about the future of local government pensions and the rule of 85 in particular. That has been reflected in the serious speeches that have been made in the chamber this morning. As David Davidson rightly said, this is not a subject for scoring brownie points on; it is far too serious for that.

As Tom McCabe stated in his opening speech, if we simply sought a quiet life or popularity, we could ignore our legal advice and do nothing, in the knowledge that local government workers who felt that their position had been protected would still be vulnerable to a legal challenge that would, effectively, strip away this condition. That is not a position that any responsible Government or employer could adopt. That is why we are striving to find a fair, equitable, sustainable and legally robust solution to the problem.

Carolyn Leckie: Will the minister take an intervention?

George Lyon: I must make progress. Many important questions have been asked by members, which I hope to address.

I stated earlier that the firm legal advice that is available to us, which we have tested separately in Scotland, tells us that the rule of 85 in the local government pension scheme breaches the European Commission's equal treatment in employment and occupation directive. The current rule of 85 provides for some members to retire with an unreduced pension before their normal pension age. The factor that decides who can access that benefit is a combination of age and service; hence, if there were two members who had given exactly the same service, it would be solely their age that would determine which one qualified under the rule. That is where there is a slight difference from the arguments that have been put forward about other schemes. It is a separate issue. It is not about money; it is about dealing with the way in which the rule works.

In his opening speech, Mr Swinney asked why we are not using derogations and quoted one from the directive. We acknowledge that the directive already contains certain exceptions, which are otherwise known as derogations. That is what John Swinney alluded to. We have always said that we are looking for ways in which those exceptions can be used to allow transitional arrangements to be put in place to give protection to members. We have to justify the use of them

objectively, but members should be assured that we are seriously considering the use of those exceptions, or derogations, in order to come up with a sustainable solution.

Brian Adam asked about the state of the local government pension scheme in Scotland. It is in a healthy state, as local authorities up here did not take pension holidays.

Both Janis Hughes and Paul Martin made strong speeches about the need for protection. Paul Martin made an important point about compliance. I take it that members from most parties will agree that compliance is an issue that we need to take seriously and work towards. That is why we believe that there needs to be a change to the scheme and why we are committed to working with the trade unions and the Convention of Scottish Local Authorities to negotiate a new local government scheme from 2008. The Scottish Public Pensions Agency is working closely with trade unions and employers to seek out a solution, and the next meeting of that tripartite group takes place tomorrow.

We are aware that there are differences of legal opinion and our legal team has been instructed actively to explore those. It has also been made clear to officials that this is a Scottish initiative. Although it would be preferable if it was aligned with a UK solution, it does not necessarily have to be that way.

I welcome the fact that industrial action has been suspended. That will allow breathing space for the serious negotiations to take place. I am sure that all members hope that a successful outcome can be achieved. Ministers have been in constant dialogue with the trade unions and COSLA for some time in seeking solutions and they stand by to continue those discussions.

Ministers are acutely aware of the genuine concerns of local government workers about the future of their pension scheme. We are also aware that, as a responsible Government, we must have regard to our legal obligation to comply with European law. We are committed to finding a solution that is both sustainable and affordable, and which focuses more directly on improving conditions for women and low-paid workers.

11:33

Carolyn Leckie (Central Scotland) (SSP): It is appropriate to remind members what the debate is about. It is not about fetishistically hanging on to a particular rule; it is about protecting the rights of local government pension scheme members and the financial package to which they are currently entitled. The fact is that the Executive has unilaterally announced a breach of those scheme members' contract and a diminution of their rights

and entitlements without their consent. They may agree to a change in their contract, but it is up to them to do that in advance of any such change. It was inappropriate of the Executive to announce to Parliament through an answer to a written question from me that it intended to abolish the rule of 85. At the same time, the Executive was in tripartite negotiations but was not telling the unions. That is outrageous.

Let us remember what the decision is about—it means that the right to retire at 60 with full pension entitlement under the rule of 85 will be removed. That will mean the loss of a third of a pension. Given that the average pension of a woman in the local government pension scheme is only £1,600, she will lose a significant amount of money.

I say to Andrew Arbuckle that the solution is not to accept a diminution; the solution is to make the deal better. The test of any solution that the Executive, or the Westminster Government, proposes will be the value of the alternative to every member of the local government pension scheme. Do the Governments propose to reduce the overall value of the scheme? Will the value stay the same, or will it increase? It will need to increase if it is to address the discrimination that women face—that is the only solution that will address the problem. Alternatively, is it being argued that some of the value of the scheme to members needs to be lost in order to equalise it? If that is the case, those making that argument should be honest about it. I do not want to equalise people down; I want to equalise them up.

What about the people who say to local government workers that we cannot afford the current provisions of the scheme? The minister used in his motion the words “viable” and “sustainable”, but that makes me very suspicious. We do not hear the words “viable” and “sustainable” in relation to the MSP pension scheme. After just eight years’ service, we are entitled to £8,000 a year. We do not hear those words in relation to the pension scheme of members of the UK Parliament, but the taxpayer bailed them out of a deficit after which they took the opportunity to increase their rights and entitlements. We do not hear those words in relation to the pension of I’m all right Jack, the First Minister, who is guaranteed 45 grand a year even if he is kicked out next week. We do not hear those words in relation to company directors who are paid 45 times more than their staff. Let us get real about those people’s pensions and start talking about what is viable and sustainable about their packages. If those kinds of pension rights and entitlements are good enough for them, they are good enough for local government workers and for all workers in the private and public sectors. It is disgraceful to argue that the local

government pension scheme for low-paid workers is not viable or sustainable.

Westminster MPs argued that their pension scheme needed to be retained because the precarious nature of the average parliamentary career meant that they deserved a better pension deal. With that sort of cheek and hypocrisy, their careers are not precarious enough.

This situation is about the political will to make priorities. Do we pay for pensions and workers or do we invest £25 billion to develop a new Trident or, as the Labour Government has done, spend £11 billion to give pension tax relief to the richest 10 per cent of the population?

When the argument turns to life expectancy, we all know that actuarial reports are based on English and not Scottish life expectancy. Unfortunately, we die younger in Scotland, so those reports make the Scottish pension scheme even healthier than the healthy state in which it is already reported to be.

The smaller someone’s pension, the earlier they die. That is just not acceptable. Unfortunately, that means that because of the rights in Jack McConnell’s pension scheme, he is likely to live as long as Methuselah.

Let me make a correction. The Government and the taxpayer would be worse off by £2 billion without the existence of the local government pension scheme and the contributions of its workforce. So why are we hearing those words “viable and sustainable”?

This whole episode and the spurious arguments made by the Executive to justify what is being done are the worst example of the Executive kow-towing to Westminster come what may. I might be more persuaded of its concerns about forms of discrimination if it spoke out and paid up to women who have been denied equal pay and to young people discriminated against by the minimum wage legislation, or if it stood up to Westminster against discriminatory asylum and immigration laws. The Executive’s protests are a bit rich.

The Executive has got its knickers in a twist over the abolition of the rule of 85. COSLA and Unison are prepared to publish their legal advice, which contradicts the Executive’s assertions, but the Executive is not prepared to publish its legal advice. The Under-Secretary of State for Trade and Industry helpfully makes explicit statements to Parliament on the EU employment directive and its flexibility—when it suits that Government’s objectives, of course—and those too contradict the Executive’s statements.

I say to the Executive: publish the legal advice and let us see it. Let us see the colour of its money, let us see whether it will back up its

statements on local government workers' pension rights with action and let us see the value of its proposals, because that is the crucial consideration.

Question Time

SCOTTISH EXECUTIVE

General Questions

11:41

Single Farm Payment (Deer Farming)

1. Alex Fergusson (Galloway and Upper Nithsdale) (Con): To ask the Scottish Executive whether it agrees with the advice from Commissioner Mariann Fischer Boel that article 45 of European Community regulation 1782/2003 could be used in order to ensure that farmers in Scotland who were deer farming prior to 2002 can receive a single farm payment under new European Union support mechanisms. (S2O-9537)

The Minister for Environment and Rural Development (Ross Finnie): In advance of my response, I apologise to the member for its slightly technical nature. In addition, I do not wish to be picky, but for the sake of accuracy, it is article 42(5), not article 45.

Article 42(5) allows member states to use the national reserve in certain circumstances for establishing reference amounts for farmers. However, the consistent advice that I have received is that the historic model adopted for Scotland excluded support for categories not previously supported. Responding to a specific question, Commissioner Fischer Boel said that if distortions of competition that provoked disadvantages to Scottish deer farmers were shown, it would be possible to use article 42(5). As the answer to what constitutes a distortion of competition involves a consideration of all other previously non-supported categories, and since any use of the national reserve has to be agreed at member state level, we have been pressing the Department for Environment, Food and Rural Affairs to clarify the applicability of article 42(5) in those circumstances.

Alex Fergusson: I could accuse the minister of hiding behind technicalities, but I would not do that. I appreciate that he is concerned that by opening up the question, he might be pursued by requests for support from previously unsupported sectors, such as the pig and poultry sectors. Is the minister aware that pig and poultry units tend to be parts of larger enterprises that almost certainly receive support through arable aid and other such mechanisms?

Given that the number of venison producers in Scotland has halved in the past two years, will the minister give an undertaking at least to investigate

what I think is an unfair loophole and to identify exactly what the cost implications would be to provide support for an extensive and environmentally friendly agricultural sector that thoroughly deserves support to allow it to compete fairly with more recent converts to venison production?

Ross Finnie: I am happy to do that. I expect that the member has exchanged correspondence with those in the deer farming industry. I have absolutely no wish to specifically exclude deer farmers from the single farm payment, but as the member rightly said, there are other unsupported sectors. Those extend beyond pig farming and include vegetable and fruit growers and other sectors that could benefit in theory. There are potentially serious ramifications for the allocation of the single farm payment.

I continue to pursue what has become an extraordinarily complex matter. I am very disappointed that after all these months we still do not have a definitive answer, but I am happy to pursue the matter further because I have no particular wish to exclude the deer farming sector. However, I must have consideration to the wider ramifications of the application of the single farm payment.

Nursing and Residential Homes (Primary Health Care Services)

2. Mrs Mary Mulligan (Linlithgow) (Lab): To ask the Scottish Executive how it ensures that people who are placed temporarily in a nursing or residential home are still able to access primary health care services. (S2O-9570)

The Deputy Minister for Health and Community Care (Lewis Macdonald): The National Health Service (General Medical Services Contracts) (Scotland) Regulations 2004 make provision for residents of nursing and residential homes, including temporary residents, to be accepted on to general practitioner lists and thereby to have access to primary health care services. Residents who for any reason cannot identify a GP practice at a temporary address may be allocated to a local practice by the NHS board for that area.

Mrs Mulligan: I am pleased to hear the minister's answer. The background to my question is that one of my constituents was removed from hospital care and placed in a temporary residential unit—temporary is the operative word in this case. Unfortunately, while they were in that unit they needed podiatry and GP care, but the podiatry was not available at all and it took time to establish the GP service. Does the minister agree that that is unacceptable and that everyone, regardless of where they live, is entitled to primary health care services? Does he also agree that arrangements

for such cases should be fully developed before an individual moves from a hospital into a residential situation?

Lewis Macdonald: I agree that people have an entitlement to access primary health care and it is a reasonable expectation that that would be organised. Clearly, the primary responsibility for registering with a GP lies with a patient. However, in recognition of the position of elderly and frail people, the national care standards for care homes, for example, require that care home staff will know residents' health care needs and will arrange to meet those needs in a way that best suits the residents. That will include, where necessary, arranging for registration with a GP, which in turn provides access to other primary care services. If a care home operator fails to carry out that requirement, the national care standards are there for everybody and clearly it is open to an individual to make a complaint either to the operator or, indeed, to the Scottish Commission for the Regulation of Care, and such a complaint would be investigated.

Edinburgh Airport (Second Runway)

3. Mike Pringle (Edinburgh South) (LD): To ask the Scottish Executive what economic benefits there are in proposals for a second runway at Edinburgh airport. (S2O-9515)

The Minister for Transport and Telecommunications (Tavish Scott): Aviation makes a significant contribution to growing Scotland's economy. The route development fund in particular promotes a greater range of direct connections. Projections suggest that, in order to maximise the benefits, a second runway may become necessary between 2020 and 2030.

Mike Pringle: I thank the minister for his answer. I also find it slightly disconcerting that a back bencher is sitting in front of a minister.

When the Executive considers the issue and when the minister has had discussions with the Minister for Transport at Westminster, will he assure me that the Edinburgh airport issue will be considered in a wider context that will perhaps include consideration of whether greater economic and environmental benefit could be brought from a high-speed, second rail line to London rather than from a second runway at Edinburgh airport?

Tavish Scott: I certainly accept the premise of Mr Pringle's argument that we need to consider the wider arguments and issues relating to aviation in Scotland, as we will do through the consultation on the national transport strategy. On every working day, there are 140 or more direct flights between Scotland and London's airports. We must consider whether there would be greater environmental benefit and improvements in

journey times through promoting and encouraging, along with the United Kingdom Government, a fast rail link to the south. That issue is under active consideration. As Mr Pringle no doubt knows, Rod Eddington, the former boss of British Airways, was commissioned by the UK Government to consider that issue and others.

Linda Fabiani (Central Scotland) (SNP): Businesspeople from Europe have spoken to me many times about the difficulty of travel between Glasgow's airports. The Scottish Executive has said that it has no plans to consider establishing single-mode public transport links between those airports. Will the minister at least consider the feasibility of single-mode public transport between Glasgow and Edinburgh airports?

Tavish Scott: I am not aware that there is a problem in travel between Glasgow's airports. If Ms Fabiani alludes to Glasgow airport and Glasgow Prestwick airport, there are rail links. While we can always look at improvements with the west of Scotland transport partnership and the First ScotRail franchise, there is significant co-ordination between those services at this time.

On travel between Glasgow airport and Edinburgh airport, one of the important issues around the Glasgow crossrail project is the ability to connect Glasgow airport to the rail network in a way that would allow passengers and travellers generally to travel right across Scotland, potentially without having to change trains. That seems to me to be a significant advantage of that project.

Jedburgh and Coldstream Cottage Hospitals

4. Christine Grahame (South of Scotland) (SNP): To ask the Scottish Executive how it considers that the proposed closure of Jedburgh and Coldstream cottage hospitals complies with the spirit of the Kerr report. (S2O-9579)

The Minister for Health and Community Care (Mr Andy Kerr): The "Delivering for Health" report has been accepted as the national framework for service change and it sets out a comprehensive strategy for health care in Scotland for the next 20 years. As I have said before, I expect any service change proposals that are developed by national health service boards to be in line with that report.

As members will know, Borders NHS Board considered and discussed the outcome of the consultation exercise at its meeting on 30 March. The board's recommendations were received in my office on 10 April. Before making any decision, I will require to be satisfied that the board has fully considered the views that were put forward by all the people of the Borders, including those from Jedburgh and Coldstream, and other interested parties over the period of the consultation and that

any proposals are fully consistent with national policy as set out in "Delivering for Health".

Christine Grahame: I refer the minister to the key messages in the Kerr report that underpin the recommendations. Three out of seven key messages contain the word "local":

"ensure sustainable and safe local services ... view the NHS as a service delivered predominantly in local communities rather than in hospitals ... develop new skills to support local services."

The final key message is:

"develop options for change with people, not for them, starting from the patient experience and engaging the public early on to develop solutions rather than have them respond to pre-determined plans conceived by the professionals."

Against the background of those key messages, I repeat my question. Does the minister think that the proposed closure of Jedburgh and Coldstream cottage hospitals complies with those underpinning key messages?

Mr Kerr: The member has no need to advise me of the contents of the Kerr report or, indeed, of "Delivering for Health", which took on board many of the Kerr report's proposals as part of the Executive's strategy. I can go no further than to say that Borders NHS Board's report is now with me and that I will make a decision at the right time in the interests of the people of the Borders.

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): The minister will be aware that one of the consultation responses was from Euan Robson and me on behalf of our constituents, who are concerned that the board's proposals did not sufficiently include co-operation between the board and Scottish Borders Council's social work department for the provision of services not only in Jedburgh and Coldstream, but across the Borders. Will the minister give the commitment that one of his key considerations will be the fact that the board has not proposed close partnership working with Scottish Borders Council's social work department?

Mr Kerr: The member raised that dimension with me previously and I recognise that such partnership working is essential for the delivery of more localised health care. Indeed, that is the policy and strategy of our health service throughout Scotland. I have agreed to a meeting with Euan Robson and representatives of the Coldstream and Jedburgh action groups on the particular issue to which the member referred. I will bear in mind the member's point about the need for close liaison between the board and the local authority.

Elderly People (Dementia)

5. Irene Oldfather (Cunninghame South) (Lab): To ask the Scottish Executive what action it is taking to promote good practice in caring for elderly people with dementia. (S2O-9572)

The Deputy Minister for Health and Community Care (Lewis Macdonald): We published guidance in 2004 on the best means of delivering care and support for those with dementia and their carers, no matter the setting. When we published "Delivering for Health" last October, we committed to develop a standard for integrated care pathways for dementia services.

Irene Oldfather: Is the minister aware that the experience of admission to hospital for elderly people with dementia is frightening and, indeed, can be dangerous? Is he also aware that elderly people suffer a significant number of accidents and falls in the hospital environment? Will the minister join me in calling for NHS boards across Scotland to put in place detailed and substantial plans to deal with hospital admission and stay? Will he look at good practice in other countries, which includes admitting elderly people with dementia to hospital only when absolutely necessary, using sitter services and consulting families regularly to ensure that elderly people with dementia are treated with dignity and respect in the hospital environment?

Lewis Macdonald: Many of the features of care to which Irene Oldfather refers are indeed the kind of things that we wish to encourage. We wish to develop those features where they are in place and, where they are not yet in place, we wish to ensure that we achieve them. The purpose of developing the integrated care pathway is precisely to ensure that all agencies, from primary care through social services, the voluntary sector to hospital services and, indeed, care homes, are aware of their particular roles, that users and their carers are consulted and that the agencies work in partnership with users and carers to deliver the most appropriate service.

Forth and Tay Road Bridges (Tolls)

6. Scott Barrie (Dunfermline West) (Lab): To ask the Scottish Executive when it expects to be able to announce the outcome of its examination of the economic, social and environmental impact and costs of retaining or removing tolls from the Forth and Tay road bridges, as recommended by the Parliament on 30 March 2006. (S2O-9543)

The Minister for Transport and Telecommunications (Tavish Scott): The proposals for that will be reported on as soon as possible.

Scott Barrie: We await them. Does the minister accept that the main reason for the necessity of its

examination is that, in the Executive's tolled bridges review, the economic, social and environmental impacts were not fully examined? Does he accept that, if the case for the tolls to be removed, which I support, is to be evidenced, all those factors need to be taken fully into account?

Tavish Scott: I certainly accept that all those factors need to be taken into account, and they need to be factual. It is important that factual evidence supporting the concerns to which Scott Barrie refers is considered. I give him the assurance that it will be considered in the context of the study that we will undertake.

Tricia Marwick (Mid Scotland and Fife) (SNP): Does the minister agree that that exchange illustrates the sheep-like stupidity of Labour and the Liberal Democrats, who voted for a review of a review instead of voting to abolish the tolls on the Tay road bridge? As a gesture of good faith, will the minister advise the Forth Estuary Transport Authority and the Tay Road Bridge Joint Board that improvements by means of relocating the tollbooths on both bridges should cease until the review is concluded, thus saving millions of pounds?

Tavish Scott: I would be very happy to deal with the stupidity of the Scottish National Party, which of course has two different policy positions depending on which day it is. The SNP had one policy position before Christmas, according to which it was in favour of tolls; after Christmas, the SNP adopted a policy position that said that it was against tolls. Which is it?

Mr David Davidson (North East Scotland) (Con): What advances has the minister made in the preliminary work on a new crossing over the Forth?

Tavish Scott: As we announced on 1 March, we are taking forward the work that needs to be done in relation to the potential need for a second crossing. That includes an assessment of the technical requirements and the continuing assessment of the current condition of the Forth road bridge. I assure Mr Davidson that we will bring those matters back to the Parliament so that members can be kept up to date with an extremely important strategic issue for Scotland.

The Presiding Officer (Mr George Reid): Question 7 has been withdrawn.

Supermarket Trading (Investigation)

8. Mr Ted Brocklebank (Mid Scotland and Fife) (Con): To ask the Scottish Executive whether it is able to provide any further information about the Office of Fair Trading investigation into supermarket trading. (S2O-9589)

The Deputy First Minister and Minister for Enterprise and Lifelong Learning (Nicol Stephen): Following its month-long consultation on its proposed decision to refer the market for the supply of groceries by retailers in the United Kingdom to the Competition Commission, the OFT is considering the responses that it has received to that consultation. We expect the OFT to reach a final decision on whether to refer within the next month.

Mr Brocklebank: Is the minister aware that Kettle Produce Ltd, one of the biggest employers in north-east Fife, recently paid off 60 staff, largely because of the company's current untenable contractual situation with the retail multiples? Does the minister agree that the supermarket code of conduct is clearly failing and that the Executive has a responsibility to Scottish food producers across the board to achieve a fairer trading situation?

Nicol Stephen: It is clearly very important that the trading environment is fair. On launching the proposed referral and consultation, John Fingleton, the chief executive of the OFT, pointed out:

"Although consumers have benefited from lower prices, the restrictions in the planning system, and the possible incentives those restrictions create for retailers to distort competition, may harm consumers and mean that competition in the market is less than it might otherwise be."

There was a very big response to that consultation, which reflects the level of interest in the issue. The size of that response is the reason for the short delay in the OFT's consideration of the matter. It had hoped to reach a decision on the proposed referral by the end of this month. I am confident, however, that a decision will be reached by the end of May.

Aberdeen Crossrail Project

9. Richard Baker (North East Scotland) (Lab): To ask the Scottish Executive what further progress it is making on the Aberdeen crossrail project. (S2O-9544)

The Minister for Transport and Telecommunications (Tavish Scott): In line with our partnership commitment, we continue to support the development of the feasibility work for the Aberdeen crossrail scheme. My officials recently met the north-east Scotland transport partnership, which is responsible for delivery of the study, to discuss progress and the next steps. All the parties involved are committed to ensuring that the feasibility work is completed by the end of 2006.

Richard Baker: Does the minister agree that the north-east would benefit hugely from the

successful completion of the crossrail project in terms of both economic impact and the development of an improved and sustainable transport infrastructure? Given the welcome new investment that is coming to Scotland's rail network, does the minister agree that a final decision backing the scheme with a clear timetable should be a priority in the Executive's national transport strategy?

Tavish Scott: I have no doubt that NESTRANS and local members such as Richard Baker will want to make such a submission to the national transport strategy. Richard Baker will know that the strategic projects review provides the opportunity to consider carefully that kind of project against many others for which there will be competing demands.

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 exciting issues they will discuss. (S2F-2230)

The First Minister (Mr Jack McConnell): I have no immediate plans to meet the Prime Minister, but I will be delighted to meet, with other members, Scotland's winning rugby team from this year when they arrive at the Parliament with the Calcutta cup shortly after First Minister's questions.

Nicola Sturgeon: I think that we can all share that sentiment.

I do not know whether the First Minister managed to catch any of what was a constructive debate this morning about drugs—I hope that we can maintain that constructive tone in this exchange. Does he agree that drug misuse is at the root of many of the problems that we face as a society and that tackling it must be a priority?

Cracking down on dealers is an on-going challenge and we should congratulate Strathclyde's police on their efforts in Glasgow this morning. Does the First Minister agree with me—and with many of the speakers in this morning's debate—that access to the most appropriate treatment for addicts who want to give up drugs is absolutely essential?

The First Minister: It goes without saying that drug misuse is at the heart of many of the social problems that we have in Scotland today. We need to have a consistently implemented strategy that deals with both supply of and demand for drugs. That entails the extensive use of the Scottish Drug Enforcement Agency and local police forces throughout Scotland, not just in Strathclyde, where this morning the largest ever series of raids took place. I hope that that has tackled effectively a number of people who are alleged to be involved in the drugs trade in the west of Scotland. Earlier this week, we saw similar effective action by the local force in Aberdeen. It is essential that such action is taken locally and nationally.

However, it is also essential that we tackle the issue of demand, because without demand there is no need for supply. That is why drug education programmes and drug rehabilitation programmes are so important and why we have increased significantly resources for both.

Nicola Sturgeon: I acknowledge the success in tackling the supply of drugs and the attempts that are being made to improve rehabilitation and treatment services.

The First Minister will be aware that before an addict can receive appropriate treatment, they have first to be assessed. I refer him to a contribution made this morning by Jeremy Purvis—not a man I quote often—who expressed concern about an addict who had to wait three weeks just to be assessed for treatment. Is the First Minister aware that two years ago, 30 per cent of addicts referred for treatment had to wait more than three weeks for assessment? Is he concerned, as I am, that two years later, the official statistics show that more than 50 per cent of addicts now have to wait more than three weeks to be assessed for treatment?

The First Minister: It depends on the context. If, as in other areas of the health service, the priority has been to reduce the longest waits for assessment and treatment, which has resulted in a small increase for those who have previously experienced shorter waits, that would be justifiable, at least in the short term. However, it would not be justifiable in the longer term. We have to ensure that initial assessment, treatment and access, if necessary, to proper rehabilitation facilities—preferably away from the home, where it can be so difficult for people to give up their addiction and sustain their progress—are more available, more consistently in more parts of Scotland. That is why we have increased investment and made this area such a priority, and we will continue to do so.

Nicola Sturgeon: The fact that more addicts are waiting more than three weeks for assessment is a matter of concern.

I put it to the First Minister that there is an even bigger cause for concern. He mentioned the longest waits. I draw his attention to information that was provided to my office during the Easter break by the Government's statistics department. It shows that in the last quarter of last year, of the 7,000 new addicts referred for treatment, nearly 1,000 waited more than six months just to be assessed for treatment, and 400 waited longer than a year. Does he agree that, when we have a strategy that rightly encourages addicts to seek help and to take personal responsibility for their lives, such waiting times are just not acceptable and will undermine an approach that we all support?

The First Minister: Ms Sturgeon started well and consensually but, as ever, she managed to depart from that approach. Over the past six months, we have seen consistently the utter distortion of waiting times statistics by the Scottish National Party. Last year, the health service in

Scotland made a concerted effort to reduce the longest waiting times by tackling the cases of those who had the longest waits, which has produced the statistics that Ms Sturgeon quotes month after month. It is a good thing that the people with the longest waits were treated and that the longest waits, therefore, came down. That was the right thing for the health service in Scotland to have done, and I will justify it whenever I have to, including here at First Minister's question time.

The real issue is whether the drugs strategy is working in practice. This morning in the west of Scotland, it has been shown yet again that the resources that have been allocated and the policies that are administered by the Scottish Drug Enforcement Agency are working, because officers are out there tracking those who are accused of supplying drugs on our streets, catching them and ensuring that they are put through the proper prosecution procedures. We know that the number of problematic drug users among young people is going down. For the first time in a long time, the use of drugs by schoolchildren is stable. Since 1999, acquisitive crime by drug users has fallen by 24 per cent. This is still a huge problem in Scotland, but we are tackling it. Tackling supply and demand—ensuring that we deal with both—is the right approach. That approach is now proving effective across Scotland.

Nicola Sturgeon: I remind the First Minister that I acknowledged the successes of the Government's drugs policy. However, consensus does not mean sweeping problems under the carpet—it means being prepared to turn our minds to seeking solutions to those problems. I ask the First Minister to turn his mind to a very simple question and, for a change, to try to answer it. What specific action is the Scottish Executive taking to reduce substantially waiting times for assessment for drug addicts who want help to get off drugs?

The First Minister: As I have already explained, there are additional investments in the health service to deal with assessments. There are also significant new investments to ensure that people have access to rehabilitation treatment that was not available before. In many parts of Scotland, the waits were not just long but at times completely open ended. Families whom I met would tell me about the agonies that they were going through in order to get their youngsters into rehabilitation places. It is critical that we tackle the supply of drugs and enforce the law effectively. We are doing that more effectively than we have ever done. However, we also need to tackle demand. That means having education programmes to stop youngsters getting into drugs in the first place and ensuring that those who are

addicted are able to go through the right process and programmes to rid themselves of addiction. The additional investment will make even more of a difference than the previous investment has already made.

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-2231)

The First Minister (Mr Jack McConnell): The Cabinet will discuss a range of issues of importance to the people of Scotland.

I can report to Parliament that yesterday the Cabinet congratulated the Lord Advocate on his elevation to the House of Lords. It is entirely appropriate, especially post devolution, that our Lord Advocate should represent Scotland in the House of Lords. I am delighted to congratulate Colin Boyd here again today.

Miss Goldie: I do not wish the Lord Advocate any ill will at all, but it is perhaps unfortunate that, having got into the House of Lords, he seems to have suffered from political ambivalence and is having to sit as a cross-bencher. Then again, if the Scottish Executive does not know its political colours, what hope is there for the Lord Advocate?

Since I last raised the subject of Scottish Enterprise with the First Minister, disturbing headlines in various newspapers have suggested that the organisation is squaring up for a fight with the Executive and is being unco-operative about appearing before the Parliament's Enterprise and Culture Committee. Although I gather that Scottish Enterprise officials will appear before the committee next week, the episode only adds to the growing public perception that a major part of the problem with the organisation is that it is becoming a law unto itself. Will the First Minister remind it that, as a public body funded by taxpayers, it is accountable for its actions properly and timeously to the Parliament and that the Parliament has a duty to hold it to account?

The First Minister: There is no need for me to do that, because the board and officials of Scottish Enterprise are well aware of their responsibilities to and their relationship with Government in Scotland and this Parliament. I understand that the report of the organisation's internal audit committee will be made available to the Enterprise and Culture Committee in the timetable that was set down, and we will publish the report on Scottish Enterprise's financial position that was commissioned by the minister from the auditors KPMG LLP.

That said, although the current flurry of activity by the Conservatives and nationalists to rubbish

Scottish Enterprise might suit their goal of reducing its budget and level of activity, it does not suit Scotland's goals. During the tartan week celebrations, I had the pleasure of announcing a deal between Wyeth Pharmaceuticals and Scottish universities that is one of the biggest for the future of our biotech industries and life sciences. The deal could have been concluded only through Scottish Enterprise's strong leadership and determination to focus on national priorities and to make a real difference not just to the organisation itself, our Government or this Parliament but to the future of Scotland. The right strategy is to focus on the right long-term objectives, and we support Scottish Enterprise in implementing that strategy.

Miss Goldie: I have never rubbished Scottish Enterprise. Indeed, such language is unhelpful to the political debate. The organisation might well be in grave danger of rubbishing itself with its activities, but that is a matter for it to determine.

The other public concern is that an agency charged with improving our economic performance does not seem to be able to balance its own books. Indeed, Karen Gillon has expressed the fear that the problem with Scottish Enterprise is similar to the situation with Scottish Opera

"in which an organisation believed that it could spend ad infinitum"

and

"that, at some point, the Executive would probably have to bail it out."—[*Official Report, Enterprise and Culture Committee*, 28 March 2006; c 2863.]

To allay those very legitimate fears, will the First Minister make it absolutely clear to Scottish Enterprise that the party is over, that it will not be bailed out again and that, like every other organisation that receives public money, it must learn to live within its means?

The First Minister: I want to make three brief comments in response to that question. First, it would be wise for us to wait for the publication of the audit reports and to examine them before we pass judgment on what has happened. However, I am certain that, if procedures require to be improved, Scottish Enterprise will make those improvements.

Secondly, our budget decisions will be based on Scotland's needs and the need for investment in certain areas. As ever, we will make those decisions properly and annually.

Thirdly, despite the need for Scottish Enterprise to address the current financial issues and to take action on various internal procedures, I believe that its strategy is right. Because of its considerable success in implementing that strategy, it deserves more support from this

Parliament than it appears to have received from Opposition parties over recent weeks.

Miss Goldie: The fundamental problem is that Scottish Enterprise is an unwieldy, bloated organisation. I am delighted that the Executive has made a start by acting on my suggestion that Careers Scotland should be removed from its functions. However, what other functions does the First Minister think could be stripped out or cut back to streamline Scottish Enterprise?

The First Minister: We would look at any proposals of that sort on their merits, but it is important that we have an economic strategy that is based on the skills of our people and on the knowledge of our universities, companies and research establishments. That is how Scotland will compete in the future, so there is a clear need for Scottish Enterprise to be involved in regeneration, in the promotion of Scotland overseas, in support for the creation and building of successful Scottish companies and in skills. Those things should always be kept under review as we focus in on the right economic strategy for Scotland and implement it. In the meantime, the key priority must be not to shake up Scottish Enterprise or to act on the Tories' proposal to cut back its activities, but to support Scottish Enterprise in implementing Scotland's economic strategy, in creating jobs for Scotland, in building investment and in building Scottish companies. That is what we should be about.

The Presiding Officer (Mr George Reid): I shall take two back-bench supplementaries, the first of which is from Dr Elaine Murray.

Dr Elaine Murray (Dumfries) (Lab): The First Minister may be aware of two announcements that were made last week, about the closure of the Ring True call centre in Dumfries and about the Hunter Rubber Company going into administration. Almost 100 jobs have already been lost in the town through those two events, and a further 60 may be lost if a buyer is not found for the Hunter Rubber Company. Does he agree that those are significant losses for a town with a population of 35,000? How can he and the Scottish Executive ensure that the internal problems of Scottish Enterprise do not diminish its efforts and its role in securing new businesses to take over both those high-quality sites and provide employment for those whose jobs have been lost or are in jeopardy?

The First Minister: We would clearly wish to support those affected by those decisions and to assist the local agencies that have responsibility to assist the individuals involved and to promote the economy of the Dumfries and Galloway area. I am sure that the Deputy First Minister and Minister for Enterprise and Lifelong Learning would be willing

to meet Elaine Murray to discuss those issues in more depth in the weeks ahead.

Mr David Davidson (North East Scotland) (Con): Last evening, I was contacted by some distraught parents in the north-east of Scotland about the threatened closure of Keith Lodge in Stonehaven, which is a facility for young people with disabilities of varying kinds that also provides respite care to people who do not come only from the north-east of Scotland.

Keith Lodge is run by the Church of Scotland, which claims that it cannot afford to keep the doors open. I recently got an answer from one of the ministers indicating that, because the facility was run by an independent organisation, the Executive had no role. I beg the First Minister to intervene in the situation to see what he can do to provide not only a short-term solution to the loss of that care facility but a long-term solution. It is a public matter and public money is used to support those young people and their families, for whom I think that we have a duty of care. Therefore, I ask him to agree today to intervene personally in the matter.

The First Minister: I did not have any advance warning that that specific issue would be raised, but my guess would be that the funding relationship with that institution has been dealt with in the past through Aberdeenshire Council. I am certain that the minister responsible will be willing to try to facilitate discussions between Aberdeenshire Council and the Church of Scotland on the issues, although we must be careful not to be seen to intervene in the internal decision making of the Church of Scotland, which is clearly an independent organisation. I would be deeply concerned if young people who needed access to services were being affected, but there may be other local factors that we need to consider, and I am sure that the relevant minister will be happy to respond.

Chancellor of the Exchequer (Meetings)

3. Colin Fox (Lothians) (SSP): To ask the First Minister when he next intends to meet the Chancellor of the Exchequer and what issues they will discuss. (S2F-2244)

The First Minister (Mr Jack McConnell): I have no immediate plans to meet the Chancellor of the Exchequer, although I expect to have a conversation with him next week.

Colin Fox: When the First Minister speaks to Gordon Brown next week, will he tell him that, given that this week of all weeks is the 20th anniversary of the Chernobyl disaster and that the death toll from that nuclear explosion could exceed 100,000, Scotland does not want nuclear power stations? Does he agree that the £70 billion

earmarked by Gordon Brown for the second generation of reactors would be better spent developing renewables and other safer forms of energy? Will he take the opportunity today to come out categorically against more nuclear power stations in Scotland?

The First Minister: I am happy to repeat the points that I made yesterday in my speech to a conference organised by the trade union Amicus.

As a devolved Government, we have a strong policy not to endorse the creation of new nuclear power stations in Scotland in advance of any proper resolution of the issue of nuclear waste. I posed two questions yesterday, and I pose them again today. Organisations and individuals who are opposed to the development of further nuclear power in Scotland have to answer the question of where the power will come from that is currently provided by nuclear power stations in Scotland. [Applause.]

Before the enthusiasts cheer too loudly, there is an equally important question for them. Those who support the development of further nuclear power in Scotland must answer the question of what we will do with the waste that currently exists and what will be done with waste in the future. Given the talents and abilities that we have in this country of ours—academic talents, natural talents, commercial talents and technological talents—it is not beyond our wit to make a major contribution to those two debates, but both must be carried out properly and openly.

Colin Fox: I am grateful to the First Minister for asking the questioner a question. However, I already replied to it, from the perspective of those who are opposed to nuclear power, in my initial question. The answer is to develop renewables and other safer forms of electricity generation.

Given that spent nuclear waste remains extremely dangerous for a thousand years, given what happened at Chernobyl and Three Mile Island and given the post-9/11 threat, does the First Minister understand why the Scottish people will not accept his promoting further nuclear power generation? Does he accept that his current position puts him on a collision course with Tony Blair, who has set his sights on building several more nuclear power plants, irrespective of the conclusions of the Committee on Radioactive Waste Management? Tony Blair argues that nuclear power plants meet CO₂ emission targets and provide stability, in comparison with gas. What assurances can the First Minister give that his view, and not that of the British Prime Minister, will hold sway in this Parliament and that the views of the Scottish people will be protected?

The First Minister: I will try to be brief. First, I restate our commitment to renewable energy. I

remind Parliament of the significant investment that has been made in and progress that has been made on renewables in recent years and the further progress that we hope to make, particularly in biomass and, potentially, in wave and tidal energy in the years to come.

Secondly, although there is scope for the further development of renewables—we have set a very high target—and for greater energy efficiency, we need to be certain that there will be an appropriate level of energy supply for domestic and commercial use in the years to come. That is why the question about supply is so important.

I say clearly to Colin Fox that the decision on whether a new nuclear power station will be built in Scotland will be made by this devolved Government. We have the responsibilities and we will take them seriously. We—and no one else—will take the decision.

Avian Influenza (Contingency Planning)

4. Helen Eadie (Dunfermline East) (Lab): To ask the First Minister whether enough precautions are in place to combat bird flu. (S2F-2236)

The First Minister (Mr Jack McConnell): The response to the single case that was identified recently showed that contingency plans were well prepared and comprehensive.

I would like to thank the minister, Ross Finnie, other ministerial colleagues, the state veterinary service and the other officials involved for their quick and effective response, which involved close work with other agencies, such as Fife Council and the emergency services. I am sure that the whole chamber will join me in thanking them. *[Applause.]*

Subject to no further findings of disease, I expect that we shall be able to lift the wild bird protection zone on Saturday 22 April, followed by the lifting of the surveillance zone and the risk area on 1 May.

I would like to record how proud I am of the behaviour of people throughout Scotland, who have not panicked and have responded calmly and reasonably to the incident. I think that we all know the damage that can be done when people panic—it is normally wise not to do so.

Helen Eadie: Does the First Minister agree that during the recent episode, when an infected swan was found in Fife, the emergency services, the relevant authorities and, in particular, the public of Fife demonstrated a commendable ability to react vigilantly and proportionately? Can he assure the public of Fife that all that can be done will continue to be done to help them to move on from the incident?

The First Minister: Clearly, my comments about people throughout Scotland reflect particularly well on the people of Fife. They were the focus not only of what could have been a scary incident for them but of national media attention, which is probably at least as scary for people who have not experienced it before. We should acknowledge the contribution made by the people of Fife and the agencies of Fife, who worked together very effectively.

I assure Helen Eadie that, although we hope to have the risk area and the zones lifted within the next 10 days or so, we will continue to monitor the situation not only in Fife but across Scotland. The ministerial group on civil contingencies—which is chaired by the Minister for Justice—will meet shortly to ensure that any lessons that have to be learned from the recent incident are taken on board in our precautionary procedures for the future. We will continue to liaise closely with the United Kingdom Government and with other agencies outside Scotland to ensure that any required improvements in liaison are put in place—and before any further incident that might take place.

Iain Smith (North East Fife) (LD): I am the MSP for Cellardyke, where the swan was found, and I add my personal thanks to the various agencies that were involved. I particularly thank the Minister for Environment and Rural Development, Ross Finnie.

Will the First Minister add his congratulations to those already offered to the folk of Cellardyke on their good sense and on the way in which they reacted to the situation? *[Interruption.]*

Does the First Minister agree that the important thing now is to make it clear to the people of Scotland and the wider world that Scotland is still open for business and that there is no immediate risk of bird flu? Does he further agree that it is important that, this weekend, we build on the successful tourism week in Cellardyke and ensure that people return to the east neuk of Fife and take advantage of our facilities? Finally, does he agree that our poultry farmers in particular must be assisted so that there is no lasting effect on the egg and chicken production industries in Scotland? *[Interruption.]*

The First Minister: This is a very serious issue—it could have been very serious for people in Fife—and the behaviour of some members today while questions are being asked has been unacceptable. It shows disrespect for the individuals and businesses that could be affected.

Businesses across Scotland have reacted and responded well to the appropriate agencies' need for further information. It is because of their response—and because they have been shown to

be good businesses—that we have been able to decide to lift the zones over the next 10 days.

Bird flu is not a human disease. That is one reason why we have put out a very strong signal that people should still come to visit Scotland. This is a great country to visit, and there is no reason why people should not come. I am delighted that it appears that—even in Fife last weekend—the numbers visiting are up. I hope that, over the summer, our investment in tourism will lead to more visitors coming to Scotland, not fewer.

Terrorism Act 2006 (Guidance)

5. Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): To ask the First Minister what guidance the Scottish Executive will issue to police forces in relation to the new offence of glorifying terrorism, created by the Terrorism Act 2006. (S2F-2243)

The First Minister (Mr Jack McConnell): The Terrorism Act 2006 is reserved legislation and the Home Office has issued a circular on its application. The Association of Chief Police Officers in Scotland has received a copy of the circular, and it is also available on the Home Office website for everyone else to see. It is largely informative and does not include instructions to police officers about the investigation or reporting of offences.

Jeremy Purvis: The First Minister will be aware that the guidance in the circular states that

“glorification of distant historical events is unlikely to be caught”

by the 2006 act. That is a relief, given the violent past of both the Borders and Scotland. However, does he share the deep concern that the circular contains no reference to the need for the right to freedom of speech—a cherished right in Scotland—to be protected? That right is often challenged by people with abhorrent and disgusting views, and it should not be put at risk by this United Kingdom legislation.

Does the First Minister also agree that much of the guidance offers the police and prosecutors subjective views on what is indirect encouragement of terrorism? What will he do with regard to policing in Scotland? What discussions will he have with the Lord Advocate to ensure that the right to freedom of speech—which is often challenging—remains robust and protected in Scotland?

The First Minister: My understanding of the circular is that it is an information circular that describes the legislation rather than a circular that expresses any opinions or gives any guidance to police officers or others on the implementation of the legislation.

It is clear that the provision of guidance to police officers in Scotland would be a matter for the Lord Advocate, but he would rarely issue such guidance because responsibility for the operational activities of police officers in Scotland lies with the chief constables. The Lord Advocate would intervene only when he felt that there was a need to give detailed guidance. However, it is appropriate for him to be responsible for the provision of any operational guidance to procurators fiscal. Such guidance will come from his office in Scotland rather than from the Home Office.

Osteoporosis

6. Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): I thank all MSPs and Parliament staff for their messages of sympathy and condolence over the past weeks, which have been of great comfort to me and the Ewing and McAdam families.

To ask the First Minister what improvements have been made in respect of the diagnosis, treatment and prevention of osteoporosis; what further plans the Scottish Executive considers should now be made, and over what time period they will be implemented. (S2F-2233)

The First Minister (Mr Jack McConnell): I thank Fergus Ewing for his comments. It is good to see him back in the Parliament. The memory of Margaret will always remain with us.

The clinical guidelines on osteoporosis that were published in 2003 set out the best ways to support people who have osteoporosis in managing their condition. We expect NHS boards to implement those national guidelines locally. In addition, we have increased the local availability of DEXA scanners throughout Scotland and there is a scanner at the Golden Jubilee national hospital that is available to the whole of NHS Scotland. The National Institute for Clinical Excellence will publish an appraisal of drug treatments for osteoporosis later this year.

Fergus Ewing: I thank the First Minister for that answer and for his kind comments.

Yesterday, as the Parliament's representative, I attended a meeting of the European Union's international panel on osteoporosis. Delegates from other countries recognised that progress has been made in Scotland, not least by the fracture liaison unit in Glasgow and through the fracture audit work that has been carried out in Edinburgh and Aberdeen. I can tell members that delegates from England were particularly jealous, as well they might be on many counts. Does the First Minister accept that early identification, diagnosis and treatment of people who are at the highest risk of sustaining fragility fractures because of

osteoporosis should be a priority in our health care strategy?

I have a further, specific question, of which I gave the First Minister advance notice this morning. Yesterday I learned that the Austrian presidency of the EU is making osteoporosis and the care of fragility fractures a priority. The issue will be discussed at an informal meeting of health ministers at the Council of Ministers next week. Given that one in two women and one in five men in Scotland who are over 50 face fragility fractures and the misery and diminished quality of life that they entail, does the First Minister agree that, like Cyprus, Latvia, France, Germany and Austria, the nation of Scotland should make the issue a priority for the hundreds of thousands of people whose lives could be improved immeasurably?

The First Minister: I am getting looks from the Presiding Officer about the time, so I will be very brief.

The phrase "national priority" has a particular connotation in the context of the national health service in Scotland and there are many demands for additional national priorities. What I would say is that the implementation of the guidelines for local health boards on the best ways to support people with osteoporosis should be a priority, and boards should be in no doubt that we expect them to treat the matter accordingly.

12:34

Meeting suspended until 14:15.

14:15

On resuming—

Question Time

SCOTTISH EXECUTIVE

Education and Young People, Tourism, Culture and Sport

Schools (Biomass Heating)

1. Mr Mark Ruskell (Mid Scotland and Fife (Green)): To ask the Scottish Executive how many new schools being built under public-private partnership contracts are installing biomass heating systems. (S2O-9581)

The Deputy Minister for Education and Young People (Robert Brown): Currently none is, but we are aware of several authorities that are considering employing such systems.

Mr Ruskell: I thank the minister for that answer, although it does not take us any further forward. There is a real sense of urgency about the issue because the schools that are being built in Scotland now will be around for 20, 30 or even 40 years. If we cannot reduce emissions from those schools, how will we tackle climate change and make our contribution? I know that the Executive will have produced a biomass action plan by the end of this year, but that will be no use because many of the PPP contracts will be finalised in the meantime.

What action will the minister take to uphold the conclusions of the recent parliamentary inquiry into biomass, which recommended

"that the Executive ensure that as many as possible of the PPP contracts which have been specified but not yet delivered can also still consider biomass systems"?

Robert Brown: The Executive is strongly committed to moving in that direction but, at the end of the day, local authorities have ultimate responsibility under PPPs for progressing the schemes. As the member is aware, there are projects in Perth and Kinross, the City of Edinburgh and the Scottish Borders, all of which are at an advanced stage and in which the question of biomass is being actively considered.

I think that I am right in saying that Perth and Kinross Council recently approved a preferred bidder. Following that approval, the Scottish Executive asked the Energy Savings Trust to undertake a technical and financial assessment of the biomass element of the project. For reasons of commercial confidentiality, that could get under way only once the preferred bidder was in place. That assessment will guide the direction of travel and allow us to make informed decisions about

how we can continue to support such elements during the development of PPP projects.

Mr John Swinney (North Tayside) (SNP): The minister will be aware that I have raised with him on numerous occasions the installation of a biomass project at the new Breadalbane academy, which is one of the schools in the Perth and Kinross project to which he just referred. Will the minister share with Parliament further details of the process and the Energy Savings Trust project that he has just announced? How long will that process take? What work is being reviewed? When is the Energy Savings Trust likely to report? Is the assessment likely to have any impact on the decisions that Perth and Kinross Council must make if it is to make progress on the issue in a very short space of time?

Robert Brown: I think that I am right in saying that the decision on the preferred bidder was taken by Perth and Kinross Council as recently as 7 April. I mentioned that the Energy Savings Trust arrangement could not proceed until that had been done, and discussions are currently under way on how to progress that matter. The Energy Savings Trust will be able to carry out the project. It is difficult to be certain about timescales because some aspects are quite unpredictable, but it is hoped that Perth and Kinross Council will be able to go on to the next stage of the process during the latter part of this year.

Commonwealth Games (2014 Bid)

2. Mr Jim Wallace (Orkney) (LD): To ask the Scottish Executive what key lessons have been learned from the Commonwealth games in Melbourne in developing Glasgow's bid for the 2014 Commonwealth games. (S2O-9518)

The Minister for Tourism, Culture and Sport (Patricia Ferguson): The 2006 Commonwealth games in Melbourne were a great example of how to showcase our country to the rest of the world, and in many respects the event acted as further inspiration to bring the event to Scotland. Our experience of the games has confirmed that we are on the right path, but we cannot be complacent about our bid. We need to continue the good work that we have started and ensure that a successful bid to host the games in Glasgow in 2014 will provide benefits for the whole of Scotland.

Mr Wallace: I am sure that the minister will welcome the fact that Glasgow's bid has been endorsed and is being supported the length and breadth of Scotland, no doubt encouraged by the success of the Scottish team in Melbourne. Did the minister glean anything from the Melbourne experience about how other parts of Victoria and Australia were able to take advantage of the games' being held in Melbourne, rather than in

those other areas, so that if Glasgow is successful—as we hope it will be—all parts of Scotland might share in the benefits?

Patricia Ferguson: The answer is quite simply, "Yes." In welcoming the support that has been evident throughout Scotland, I very much took to heart the need to respond to that support. Our experience of Melbourne proves that it is possible to spread the benefits around the country.

From the assessments that have been carried out, we know that the net economic impact for Scotland could be as much as £81 million. Obviously, that would be good, but we want to maximise that and use every opportunity to ensure that Scotland benefits from the games. The benefits will not be only economic. Although we hope that our economy and tourism industry will benefit, we also want to ensure that the health, sporting and confidence-building benefits that come from the Commonwealth games are spread around Scotland.

On a practical level, I was very much aware that the Scottish team at the recent games was based at a holding camp that was more than two hours from Melbourne. Other teams had similar experiences—they, too, occupied facilities around the country. Obviously, we will look for opportunities to spread that kind of impact around Scotland.

Linda Fabiani (Central Scotland) (SNP): The minister mentioned the

"health, sporting and confidence-building benefits"

that could accrue from the games. Is she aware that last week the Republic of the Marshall Islands became an Olympic nation, despite their being little more than an American protectorate and having a population of only 60,400? Is she aware of the proposals for Greenland and the Faroe Islands to have their own teams and that the proposals have been supported by the Danish Government? Will she now add her support to the growing campaign for Scotland to have its own Olympic team in 2012?

Patricia Ferguson: My focus is on ensuring that Scotland benefits from the 2012 Olympic Games in London and that we secure and benefit from the 2014 Commonwealth Games. I take the view of our athletes—especially those who compete alongside others—who say that their best opportunity for succeeding is to participate in a successful Great Britain team. We have seen many of our athletes succeed in that way in the past. We want to ensure that, come 2012, as many Scots as possible can stand on the podium.

Scottish Tourism Forum

3. Brian Adam (Aberdeen North) (SNP): To ask the Scottish Executive when it last met the Scottish Tourism Forum and what issues were discussed. (S2O-9578)

The Minister for Tourism, Culture and Sport (Patricia Ferguson): I and my officials are in frequent contact with the Scottish Tourism Forum on a number of matters. Those range from policy issues, such as the forum's view on our recently launched tourism framework for change, to tactical matters such as communications with the industry. Recently, a member of the Scottish Executive's tourism unit was seconded to the forum to assist with the organisation of the successful Scottish tourism week.

Brian Adam: When the minister next meets the Scottish Tourism Forum, will she ask it for its views on how VisitScotland's niche-market initiatives are progressing and whether the forum believes that VisitScotland is taking enough advantage of the historical context in which we live? I, for one, have been disappointed with the promotion of Robert the Bruce in the events over the past year, but a number of other opportunities are coming up. I commend to the minister the opportunities that will be presented by a number of forthcoming significant scientific anniversaries. We could encourage our universities to organise conferences on, for example, the discoveries of James Clerk Maxwell, the invention of penicillin or the development of magnetic resonance imaging scanners. All those opportunities should be used to promote Scottish tourism, even to niche markets such as scientists.

Patricia Ferguson: At a time when we have so many conferences and events coming to Scotland, it is interesting that Mr Adam is so negative about the available opportunities. I point out to him that VisitScotland is very much involved in promoting the kinds of niche markets that he mentioned. Along with colleagues in EventScotland, VisitScotland will be very much involved in promoting events that are connected with the year of Highland culture next year and the Burns year of homecoming in 2009. This year, VisitScotland has been involved in marketing—successfully so far, although it is early days—Scotland and Edinburgh as part of the special campaign that it has put together for the movie "The Da Vinci Code". It is fair to say that VisitScotland takes every marketing opportunity to attract people to Scotland.

Mr Jamie McGrigor (Highlands and Islands) (Con): Is the minister aware of the continued unhappiness in the tourism sector about the centralising of power to VisitScotland and the corresponding loss of local control? Will she give a commitment to revisit the Tourist Boards

(Scotland) Bill with a view to reforming VisitScotland so that it becomes a genuinely bottom-up organisation that can allow communities to exercise at least as much power over tourism in their areas as they were able to exercise under the old area tourist boards?

Patricia Ferguson: The simple answer to Mr McGrigor's question is, "No." To expand on that, I point out that the reorganisation of VisitScotland and the tourist boards that constitute it happened very much in response to the industry's wish to change and to move forward into the present day. I do not accept that there has been centralisation. Some 98 per cent of VisitScotland staff are based outwith Edinburgh, where its headquarters is located. The picture that Mr McGrigor paints is not fair and is not supported by the industry as a whole.

National Veterans Day

4. John Swinburne (Central Scotland) (SSCUP): To ask the Scottish Executive what cultural events it plans to hold to celebrate national veterans day on 27 June 2006. (S2O-9513)

The Minister for Tourism, Culture and Sport (Patricia Ferguson): We are keen to ensure that the first national veterans day properly acknowledges and celebrates in Scotland the valuable contribution that is made to our society by all veterans. We are therefore currently in discussion with Scottish veterans organisations, the Ministry of Defence and the Veterans Agency about how the day can best be marked in Scotland.

The focus of the day in Scotland is likely to be in Dundee, where the Dundee Combined Ex-servicemen's Association is planning a parade and concert. We expect a number of other local events to take place. The Ministry of Defence is running a national art competition for schoolchildren and has written with details to all primary schools in the country. I encourage all primary schools in Scotland to consider how their pupils can participate.

John Swinburne: Veterans day is 11 Downing Street's latest ploy, as it pushes Gordon Brown's premiership plans. Does the minister agree that the proposed participation of the population in the project is a pathetic pretence at popularising and promoting to the post of Prime Minister a person who perpetuates penury and poverty among pensioners, who picks pockets every pay day through the pay-as-you-earn system, and who has presented these picked veterans and their peers with a princely 25p per week pension plus-up on their 80th birthday?

Patricia Ferguson: I will try to rise to the challenge of working out what that has to do with

the cultural events that may be planned and to which Mr Swinburne's original question referred. However, I congratulate him on his creativity in his supplementary question.

I do not accept that national veterans day is meant somehow to diminish the contribution of veterans. It is a day on which we will have the opportunity properly to recognise the contribution that they have made. It is one of a number of initiatives that the United Kingdom Government has taken in recent times to ensure that our veterans are properly recognised. As Mr Swinburne knows, war pensions, like other pensions, are reserved to Westminster. The Scottish Executive is tackling pensioner poverty in partnership with the UK Government. Of course, pensioners have the right to live in dignity. Since 1996-97, 120,000 pensioners have been lifted out of relative low-income categories, with three quarters of pensioners being lifted out of absolute low-income categories. If we add that to the work that is being done on central heating, free travel and free personal and nursing care in Scotland, it is clear that we are going in the right direction to ensure that our veterans are properly recognised and given the kind of gratitude that they definitely deserve from this country.

Young People in Care

5. Janis Hughes (Glasgow Rutherglen) (Lab):

To ask the Scottish Executive what information it has on the average age of young people leaving care from (a) foster care, (b) residential units and (c) children's units. (S2O-9554)

The Deputy Minister for Education and Young People (Robert Brown): The average age at which a young person beyond minimum school-leaving age leaves foster care is 16. The same is true for residential accommodation. Children and young people can cease to be looked after at a variety of ages up to their 18th birthday, depending on their circumstances. However, children who cease to be looked after beyond school-leaving age continue to be eligible for aftercare support.

Janis Hughes: I would welcome further discussion with the minister on the matter. In the meantime, will he outline how he anticipates that the figures will change in coming years and will he say what steps the Executive will take to achieve such changes?

Robert Brown: Janis Hughes's question raises a fundamental issue, which is close to my heart and to other ministers' hearts. How we give looked-after children a better start in life has been an extremely challenging issue to take forward. The throughcare and aftercare regulations, which came into force a while ago, were designed to try to take forward the support that young people in the age group that we are talking about need,

against a background in which different kinds of barriers exist. Sometimes young people want out of the system and want to get away from statutory organisations because they feel that they have been in the system for too long. At other times, there are difficulties with placements and background issues or there are problems to do with settling people in accommodation and employment, of which Janis Hughes is aware. Often the underlying problem is a lack of coping and life skills and qualifications to enable matters to be taken forward.

In consequence of all that, we recently set up a looked-after children group under the chairmanship of the Minister for Education and Young People, Peter Peacock. The group has had several meetings and has done much valuable work to try to home in on what we can usefully do to improve outputs for such young people. For members' information, 12,185 children were looked after by local authorities as at 31 March last year—the figure is going up slightly. Some 57 per cent of those children were looked after at home with their parents or with family or friends, which helps to put into perspective the nature of the challenge that we face in that regard.

Lord James Douglas-Hamilton (Lothians) (Con): I welcome the minister's reply, but does he agree that care leavers require support to access accommodation, further education and training, and the jobs market? The statutory regulations to which he referred require local authorities to assess care leavers' support needs, to develop a pathway plan to be reviewed every six months, to appoint a pathway co-ordinator and to provide financial assistance and accommodation. Will the minister make certain that those requirements are adhered to in every case?

Robert Brown: I am grateful to Lord James Douglas-Hamilton for his question. There is no question but that the throughcare and aftercare regulations and the structures around the regulations are central to securing a better deal for the young people whom we are considering. Obviously, the system is operated in practice not by the Executive but locally, but it is the endeavour of the Executive and other bodies that are involved in the system to ensure that people do not fall through the net and that they are given the support that they want and, in many cases, need. The problem that we face is complex and we must deal with a number of barriers. Central to the work of the looked-after children group is the attempt to ensure that there is a better outcome for young care leavers than has traditionally been the case.

Tourism (American Visitors)

6. Alex Johnstone (North East Scotland)

(Con): To ask the Scottish Executive how many American tourists visited Scotland during the past year. (S2O-9587)

The Minister for Tourism, Culture and Sport (Patricia Ferguson): Last year, the number of visitors who came to Scotland from North America as a whole was estimated to be in the region of 543,000. A breakdown of the number of visitors from the United States is not yet available.

Alex Johnstone: Figures from the previous year indicate that there has been a fall of 11,000 in the number of visitors from the US, although the Executive's expenditure on tartan week has risen significantly during a short period. Will the minister undertake to complete a detailed evaluation before next year's tartan week programme is finalised, to ensure that we do not fail to take advantage of the resources that are made available? Will she admit that such expenditure has so far simply had the effect of attracting more visitors to New York than to Scotland?

Patricia Ferguson: I do not accept the premise of Mr Johnstone's latter question. He is correct in saying that visitor numbers from North America appeared to be down by about 2 per cent last year, but we are not yet aware of the reasons for that. The figure should be offset against the 31 per cent increase in visitors from overseas in general. The marketing of Scotland that we do abroad is working particularly well.

Mr Johnstone's view of tartan week is a little disappointing to those of us who have seen tartan week and tartan day develop and become a focus for Scotland and Scotland's ambitions abroad. For example, it is estimated that the £600,000 that VisitScotland spent on last year's tartan week generated about £2.4 million-worth of public relations, which resulted in our message about Scotland reaching about 39 million Americans. The money that the Executive, VisitScotland and other agencies have spent has been well spent. As we constantly review and evaluate our work, we will evaluate our work on tartan week. We intend to produce the information that Mr Johnstone asked for, so we will ensure that he gets a copy when it is available.

School Leavers

7. Marlyn Glen (North East Scotland) (Lab):

To ask the Scottish Executive whether there are any plans to improve the tracking by local education authorities of the final educational destination of school leavers. (S2O-9551)

The Deputy Minister for Education and Young People (Robert Brown): Education authorities monitor the progress of their pupils in a

way that most appropriately meets local needs. Careers Scotland, working with education authorities and schools, collects information on the destinations of young people after they leave school. The Executive will soon publish a strategy to reduce the proportion of young people who are not in education, employment or training—the NEET group—in Scotland. The strategy will acknowledge the importance of having detailed information on young people's post-school destinations, and will recommend a number of actions to enhance the information that is available.

Marlyn Glen: I thank the minister for that detailed response. The minister will be aware of the excellent links between Dundee City Council's education department and Dundee College, a further education establishment, and the resulting high transfer to higher education rate. Does he agree that further education is an appropriate route to higher education and that movement through the sectors should be monitored and encouraged? Does he also agree that all the successful career paths of young people, including into apprenticeships, should be measured and publicly acknowledged?

Robert Brown: I recognise immediately that there are several paths into higher education, one of which—an important one—Marlyn Glen referred to. It is important that young people who do not make it to higher education the first time round through the main route should have on-going opportunities to get in. The NEET group covers the 16 to 19 age group. I readily accept that difficulties arise in analysing the composition of that group, which includes people who are doing gap years and various others who are not really at risk. Difficulties also arise with the longitudinal or longer-scale approach of getting information on young people's situation later in life. We are trying to get a better handle on the information that is available in following people through. That is tricky and requires a lot of input, but we hope that over time and through the NEET group strategy, we will improve our understanding of that matter.

The problematic people with whom we are concerned are those who have a sustained status of being not in education, employment or training and those who move in and out of that situation over time. We are not necessarily concerned with those who follow other routes or who take time out for other reasons.

Finance and Public Services and Communities

The Presiding Officer (Mr George Reid): Question 1 was not lodged.

Supporting People Initiative

2. Helen Eadie (Dunfermline East) (Lab): To ask the Scottish Executive when it last met the Convention of Scottish Local Authorities to discuss the issue of budgets for the supporting people initiative. (S2O-9549)

The Minister for Communities (Malcolm Chisholm): Ministers had several meetings with COSLA in October and November 2004 to discuss supporting people budgets prior to the revised allocations that were announced on 23 December 2004. COSLA is represented on the officials group that assesses the impact of the budget changes on services, providers, service users and jobs, which met in April, July and December 2005. Scottish Executive officials regularly attend COSLA's meetings of supporting people lead officers.

Helen Eadie: Will the minister meet again with me and other Fife members to discuss the impact of the review? He may be aware that, at the Public Petitions Committee meeting on 22 February, the committee heard from representatives of CRAG—the Citizen's Rights Action Group—who impressed on the committee their deep dismay at the impact of the review. Is he aware that, outside Glasgow, Fife has the greatest deprivation, which is illustrated in the publication of the data zones? Finally, is he aware that Fife has one of the highest populations of elderly people in Scotland and that that will be compounded by the steep increase of about 22 per cent in the number of elderly supporting people clients between 2004 and 2009, from 5,840 to 7,125?

Malcolm Chisholm: In addition to the meetings with COSLA to which I referred, I met Fife Council some time ago about that. However, I would be more than pleased to meet Helen Eadie and her colleagues to discuss it further. I followed with close interest developments in the supporting people programme and we submitted a report to the Communities Committee about that a week or two ago. I am advised that there have not yet been any service reductions in Fife; indeed, next year's budget will be the same as this year's. Helen Eadie will want to raise those issues in more detail with me. I look forward to that.

Local Government Pensions

3. Jackie Baillie (Dumbarton) (Lab): To ask the Scottish Executive what progress is being made in resolving the local government pensions dispute. (S2O-9542)

The Minister for Finance and Public Service Reform (Mr Tom McCabe): We are continuing to work with the tripartite Scottish local government pension advisory group, consisting of the unions, the Convention of Scottish Local Authorities and the Scottish Public Pensions Agency, to identify a legal and affordable solution. The next meeting of the group takes place tomorrow.

Jackie Baillie: I am conscious that that issue was substantially discussed this morning. While pensions policy is reserved, I am delighted that the Executive is committed to negotiations to reach an amicable solution. Will the minister consider the principle of protection of the rights of existing local government pensioners?

Mr McCabe: I can give the member an absolute assurance that that is exactly what we will consider. It is not as simple a matter as replacing that condition for those who could currently access it. In order to avoid transgressing the directive in another fashion the application has to be wider. We are determined to try to ensure that those people who have been disadvantaged through the introduction of the directive are adequately compensated.

Public Services (Reform)

4. Alasdair Morgan (South of Scotland) (SNP): To ask the Scottish Executive what progress has been made on the reform of public services. (S2O-9530)

The Minister for Finance and Public Service Reform (Mr Tom McCabe): The historically high levels of investment in Scotland's public services since 1999, together with the measures that we have put in place continuously to improve performance, accountability and efficiency, have delivered good progress to date on the reform of Scotland's public services. Significant progress continues to be made in developing options to widen the scope, expand the scale and accelerate the pace of public service reform to deliver improvements to the lives of the people of Scotland.

Alasdair Morgan: Following the minister's recent remarks to the conference of the Convention of Scottish Local Authorities—albeit by videolink from Washington, which must have been a rare pleasure for everyone—in which he said that he was concerned that his promised think-piece document might allow people

“to defend their own space ... and cloud the important debate that we need to have.”

Can the minister say how a debate can be had if people are not able to defend their own space if that is what they choose to do? Is it not the case that the postponement of the publication of the

paper owes much to the need not to rock the boat before next year's local government elections?

Mr McCabe: I can assure Mr Morgan that I have every intention of rocking the boat, if that is how he sees it. We intend to publish that paper. I received a warm letter from the president of COSLA, who seemed to appreciate my address from Washington to the COSLA conference. I do not know whether Mr Morgan is getting a peek at my correspondence, but I am glad that he supports the view that the president holds. I assured COSLA that we want to engender a debate in Scotland that is as open as possible and that convinces people that this is a genuine attempt to seek the views of politicians and professionals. That is what we will do. We will facilitate that with the document, but we will do it at the right time and in the right way.

Revenue Support Grant

5. John Home Robertson (East Lothian) (Lab): To ask the Scottish Executive whether it has any plans to review the formula whereby revenue support grant funding is redistributed in favour of areas of deprivation. (S2O-9553)

The Minister for Finance and Public Service Reform (Mr Tom McCabe): The grant distribution formula is kept under constant review and, in that context, we will consider carefully the recently published findings of the Scottish Parliament's Finance Committee report on deprivation.

John Home Robertson: I hope that we can all accept the case for transferring resources to help areas of multiple deprivation, provided that the money is used to tackle problems of deprivation by the councils that benefit from that formula. Will the minister give me one good reason why the Lothian and Lanarkshire areas, which include deprived communities, should lose £3.8 million and £3.3 million respectively of revenue grant this year to contribute towards a council tax freeze in Glasgow? Surely, if Glasgow City Council is not using its resources to tackle poverty as intended, that tranche of revenue grant should go back to areas such as the minister's constituency and mine. If Glasgow wants to freeze its council tax, that is fine—but let it do it from its own resources and not on the backs of other communities in Scotland.

Mr McCabe: Councils in the Lothians and in Lanarkshire have the opportunity to discuss such matters within the Convention of Scottish Local Authorities. I have made it clear on many occasions that I am keen to discuss the distribution formula with COSLA. I reassure the member that, in discussions with the leader of Glasgow City Council, I have been left in no doubt whatsoever about that city's determination to tackle poverty and deprivation and to ensure that

its spending is appropriate. How Glasgow decides to use its resources to meet its aims is a matter for the council.

Des McNulty (Clydebank and Milngavie) (Lab): The minister referred to the Finance Committee report that was published last week, which called for a comprehensive review of the revenue support grant system. It also highlighted certain interim steps that could be taken to target money more effectively towards dealing with deprivation—including consideration of areas in education and justice that currently are not deprivation-linked but should be, and consideration of how resources are clawed back from areas that suffer from the population loss that is often associated with multiple deprivation, as has happened in Glasgow, South Lanarkshire, West Dunbartonshire and other areas. The Executive does not immediately lose money because of population loss, but local authorities do. A better safety net arrangement could be considered.

Mr McCabe: I agree with much of what the member has said and I have made it clear that I am willing to engage with COSLA in a review of the distribution formula. Of course, many people before me have tried to do the same and have failed; but I consider myself a fairly dogged individual and I assure the member that I will continue to raise such matters with COSLA.

Christine Grahame (South of Scotland) (SNP): I, too, want to refer to the splendid report by the Finance Committee on funding for areas of deprivation. Paragraph 5 states:

"The bureaucracy involved in the allocation of Community Regeneration Fund (CRF) monies is massively disproportionate, especially for those local authority areas which receive small sums from the Fund".

Does the minister agree?

Mr McCabe: I certainly agree that we have committed ourselves on various occasions to considering the burdens of reporting and of overseeing different grant streams that are given to local government and to other public sector organisations. From conversations with both politicians and professionals in local government throughout Scotland, I know that they feel that the burden of reporting and producing plans is onerous and that some of the things that they have to do in order to qualify for certain funding streams are disproportionate. We are determined to continue to examine that, just as we are determined to examine a whole series of bureaucratic measures that we believe may be cramping professional expertise and width and therefore preventing people from serving the general public as well as they can.

I assure the member that, wherever there is unnecessary bureaucracy, we are determined to examine it in detail, along with the people who deliver the services at the front line, and to do all that we can to eliminate it.

Public-private Partnership and Private Finance Initiative Contracts

6. Frances Curran (West of Scotland) (SSP): To ask the Scottish Executive how much it has already allocated, and how much it will allocate, to fund PPP/PFI schools and hospital contracts. (S2O-9535)

The Deputy Minister for Finance, Public Service Reform and Parliamentary Business (George Lyon): The Executive has allocated £6 billion towards some 30 years of schools PPP projects. This forms a significant proportion of the funding for 39 schools PPP projects undertaken in partnership between the Executive and local education authorities. This allocation underpins our commitment to refurbish or renew 300 schools by 2009—the largest-ever school building programme in Scotland's history. Further financial support for school building projects is a matter for the next spending review.

NHS boards are not given specific allocations to fund PPP or PFI contracts. The revenue costs associated with unitary payments to service providers are met from within NHS board formula-based revenue allocations.

Frances Curran: A lot of public money is being put into private hands. Has any action been taken on a value-for-money study of PPP projects? Has the Executive built into the contracts any clauses that will restrict the ability of the private companies involved to engage in refinancing deals? Does the Executive intend to put in place any clawback arrangements for windfall profits that are made from the refinancing of such contracts?

George Lyon: Local authorities are required to use a public sector comparator to assess any PPP proposals and to ensure that they would deliver value for money before they go ahead with such a project. In relation to what the contracts say about refinancing, I know that the PFI model that Argyll and Bute Council uses is non-profit making. All profits that are made by the special vehicle that has been set up to build and operate schools in that area are returned to the schools, so that contract provides exceedingly good value for money.

Convention of Scottish Local Authorities (Meetings)

7. Mr David Davidson (North East Scotland) (Con): To ask the Scottish Executive when it last

met the president of COSLA and what issues were discussed. (S2O-9586)

The Minister for Finance and Public Service Reform (Mr Tom McCabe): I last met the president of COSLA on 19 April to discuss a range of issues. My previous meeting with the COSLA president was on 23 March when, along with representatives of the trade unions, we discussed issues relating to the local government pension scheme in Scotland. In addition, on 6 April I contributed to the convention's annual conference through a videolink, which involved a debate with the COSLA president. Other ministerial colleagues and officials from across the Scottish Executive hold regular meetings with the convention on a range of issues.

Mr Davidson: When the minister next meets the president of COSLA, will he raise the issue of the levels of council tax that will be required under next year's settlement? What advice will he give to COSLA and what expectations does he have about the size of any increases?

Mr McCabe: I do not know whether we will discuss future council tax levels at our next meeting, but I fully expect that we will do so at some point in the near future, as has been the practice in the past. I am hopeful that local authorities throughout Scotland will be as mindful of the advice that we gave last year in the year to come.

I am sure that Mr Davidson will know that the council tax increases for 2005-06 were the lowest since devolution. We are pleased about that and would like to think that such progress can continue to be made so that the people of Scotland will benefit further from council tax levels that are substantially lower than they are in other parts of the United Kingdom.

Musselburgh Racecourse

8. Robin Harper (Lothians) (Green): To ask the Scottish Executive whether it will call in the proposal for the development at Musselburgh racecourse. (S2O-9585)

The Deputy Minister for Communities (Johann Lamont): We called in that planning application on 7 April.

Robin Harper: I am sure that the community in Musselburgh will be very pleased that the application has been called in.

As the Planning etc (Scotland) Bill progresses, will the Executive pay close attention to further conversations about common land, consultation rights for communities and the possibility of a limited right of appeal for communities?

Johann Lamont: I think that the member will be aware of the Executive's position on granting a

limited right of appeal. We are clear about our commitment to engage with communities at an early stage through the development plan. We have a strong interest in the role of local government in providing democratic accountability, especially in cases such as that to which the member refers, which is an example of a local authority interest case, in which we recognise that a fine balance needs to be struck.

We are proud of our package of proposals on planning and I assure Robin Harper that, through engagement with the Communities Committee and with other members, we will ensure that we have a planning process that not only satisfies the needs of local communities, but allows the progression of those developments that are necessary if we are to have vibrant and healthy communities.

Community Councils

9. Donald Gorrie (Central Scotland) (LD): To ask the Scottish Executive whether, learning from the English experience with parish councils, it will discuss with community councils and other community groups an increase in the powers, resources and opportunities of community councils. (S2O-9514)

The Deputy Minister for Finance, Public Service Reform and Parliamentary Business (George Lyon): We are currently reviewing the operational framework for community councils and, in support of that work, we issued a discussion paper entitled "What can we do to help community councils fulfil their role?" in November 2005. The closing date for responses to that paper passed recently. Once we have evaluated the responses, we will have a clearer idea of the obstacles that need to be overcome to assist community councils in becoming more operationally effective.

Donald Gorrie: My concern is that the consultation did not fully allow for views to be taken on an extension of the powers of and opportunities for community councils. I have two suggestions for the minister. First, community councils could become a statutory partner in the planning system, rather than simply a body to consult. Secondly, if we are serious about promoting community industries, social enterprise and so on, we should look to the community councils, which offer a good basis for such work. I hope that the minister will consider the further opportunities that exist for community councils. They should play an important part in our lives, whereas people tend to view them as peripheral at present.

George Lyon: On the first point, the Planning (Scotland) Bill gives greater opportunities for community involvement in the planning process. Mr Gorrie has a strong interest in community

councils. I am sure that the ideas that he is promoting could form part of the wider discussion on public sector reform, which Mr McCabe mentioned in answer to an earlier question. The appropriate place for those discussions is the debate on public sector reform. When we come forward with a paper on public sector reform, Mr Gorrie should feed his thoughts on the matter into that debate.

The Presiding Officer: That ends questions to ministers. I will allow a pause for members to enter and leave the chamber.

Civil Justice Reform

The Presiding Officer (Mr George Reid): The next item of business is a debate on motion S2M-4255, in the name of Cathy Jamieson, on civil justice reform.

14:57

The Minister for Justice (Cathy Jamieson): The civil law of Scotland is about life events: it is about the way in which we relate to each other as family members, organisations, employers and employees. The civil law is an essential element of our daily lives, which is vital to keeping everything in our society running smoothly. Although all of us would hope not to be touched by the criminal law, everyone is affected by civil law, even if they do not notice it.

We need modern laws for a modern Scotland—laws that are suitable for the way that we live now. Our laws must not only be clear, fair and understandable; they must protect our rights, help us to resolve disputes when things go wrong and be accessible. We need to do more to modernise our civil law because, if we are honest, it does not always match our aspirations or public expectation. Although we have done a great deal since 1999 to modernise the substantive civil law, for example by implementing Scottish Law Commission reports, reform of the system itself is long overdue. The system is crying out for urgent attention.

Under the auspices of the Nuffield Foundation, the Scottish Consumer Council's civil justice advisory group carried out a study on the need for review of the civil justice system. That group was chaired by the right hon Lord Coulsfield, whose energetic leadership of the group reflected his long experience in the Court of Session and his personal commitment to reform. He was assisted by members who represented the legal professions, consumers, academics, the judiciary, the Scottish Legal Aid Board, the Confederation of British Industry, the Scottish Trades Union Congress, the local authorities and the Executive.

The group consulted widely before publishing its report last November. It asked about priorities for reform and whether there was a need for a full or partial review of the system. In its report, the group identified a number of issues that need to be taken forward in a civil justice review. I will briefly run through the six key issues that were raised by the group and say a bit about each one.

The first key issue was the problem of disproportionate costs, particularly in relation to cases of relatively low financial value. As members are aware, the current jurisdiction limits were set in 1988; in the 18 years since then, they

have not been increased even to reflect inflation. The present limit of £750 for small claims might sound reasonable, but the value of many consumer goods these days exceeds that sum.

I ask members to consider the level above which a party has the choice of litigation in the Court of Session—£1500. It is arguable whether it is a good use of resources for the highest civil court in Scotland to deal with cases that are often straightforward and of relatively low value. I accept that we will need to address that.

The second issue was court procedures for handling civil and criminal business and the impact on achieving speedy outcomes for parties. We need to examine further the way in which the courts deal with civil and criminal business. In our sheriff courts and supreme courts, criminal business runs to tight deadlines that respect the civil rights of accused persons and the need to respond quickly to crime, but the civil rights of parties to a civil case are important too and we need to ensure that account is taken of them.

The third matter that the group considered was whether there is a need for specialisation among courts or judges and the manner in which such specialisation might be organised. Specialisation among courts is a difficult issue in a small jurisdiction such as Scotland, because what is suitable in our cities might not work for rural areas, where the full range of criminal and civil business has to be conducted with a limited number of sheriffs. However, we are beginning to see the benefits of specialisation in, for example, the commercial court in Glasgow sheriff court. Its recent evaluation showed how a relatively simple change in procedures, combined with a business-like attitude from all involved and greater use of modern technology, brought about real improvements that led to cases progressing more quickly as well as a reduction in costs.

A fourth question was whether the conduct of court business could be improved by increasing the role of the courts in case management. Judicial case management has proven its worth in the recent High Court reforms, and I believe that it could help to improve civil procedure further. That issue would best be reviewed by those who are most able to develop such arrangements—the judiciary themselves.

The fifth area was the way in which lawyers' remuneration is assessed and particularly its impact on the costs that are recoverable in litigation. Access to justice is important. Most clients pay privately and affordability is a real issue. It has been helpful that the legal professions have shown willingness to change. One example of that is the agreement between the Law Society of Scotland and the Forum of Scottish Claims

Managers to introduce pre-action protocols to assist case preparation and early settlement.

However, there remains dissatisfaction with the legal professions, which is sometimes justified. As members know, we have introduced the Legal Profession and Legal Aid (Scotland) Bill to set up an independent body to handle complaints about inadequate professional services. We will shortly publish the report of the research working group on competition in the legal professions. The report will make a number of recommendations for reform, including the modernisation of the system whereby auditors of court assess what lawyers can and should charge for their services.

Mr John Swinney (North Tayside) (SNP): The minister referred to the publication of the report of the research working group on competition in the legal professions. Will she say any more about the Executive's reflections on the contents of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990, particularly sections 25 and 29, which the Executive has not so far implemented? What reasons have there been for that and what action will arise from the publication of her report?

Cathy Jamieson: That was a cleverly worded question from Mr Swinney to try to get me to pre-announce what will be in the report. I recognise his long-standing interest in the matter, but he will recognise that I will not do that. Many and varied people have shown an interest in the matter and have pressed us on it. As soon as the report is ready to be published, we will let him know and he can expect to see the actions that will come ahead of that.

The sixth point was whether enforcement of court judgments can or should be left to the parties or whether there should be some public role in ensuring that judgments are observed. The Bankruptcy and Diligence etc (Scotland) Bill proposes improvements to our system of diligence that are intended to strike a better balance between the interests of debtors and creditors. We also propose to regulate the activities of sheriff officers and messengers-at-arms through the Scottish civil enforcement commission. However, I agree with Lord Coulsfield's group that the matter could be considered further, particularly where a private individual is faced with the difficulty of enforcing a judgment against an organisation.

Dr Sylvia Jackson (Stirling) (Lab): Will the minister comment on the difficulties that were raised during the passage of the Family Law (Scotland) Bill with the enforcement of contact orders? Might she extend the six areas that she has mentioned to include that matter and the recommendations that Hugh Henry said he was going to make in relation to compliance officers?

Cathy Jamieson: I understand the point that Sylvia Jackson makes. I suggest that the work that Hugh Henry gave a commitment to do in relation to contact orders is a separate piece of work, but I assure Sylvia Jackson that it is progressing.

As many members have said in the chamber—or, indeed, in other parts of the building—the courts are not the only method of resolving disputes. Our view is that the courts should be a last resort to be used when the parties cannot move towards a settlement in any other way. That is why we are working in partnership with the Scottish Mediation Network to raise public awareness of mediation and promote good practice. We are setting up new pilot projects in Glasgow and Aberdeen to test different models of provision for mediation services. We already support the work of voluntary sector bodies such as citizens advice bureaux and law centres in providing advice and advocacy where that is appropriate.

We have done a great deal to modernise administrative justice through the unified Scottish public services ombudsman. We are also committed to a strong and healthy tribunal system in Scotland and we are preparing possible future legislation on arbitration.

However, none of that work amounts to a comprehensive review of the type that many people have been advocating for years, nor does it bring our vision into public focus. We have therefore been considering what our next steps should be. Of course, we cannot do that in isolation. We need to listen to the views of people who have real, day-to-day experience of dealing with civil justice issues and to find out from them what they regard as the key areas for review and reform. For that reason, we recently met a broad range of people who have direct experience of civil justice, including people from advice agencies and law centres, the legal profession and judges. The same themes came up time and again, including a feeling that some of our approach has seemed to be piecemeal. For that reason, I propose to publish before the summer recess a plan that sets out our vision for the civil justice system and states clearly the range of work that is under way and how it links together.

Our recent discussions have reinforced the idea that the time has come for a wider review of the system. I agree that the time has indeed come for a root-and-branch look at our civil courts. The judiciary has a key role to play in the management and organisation of the courts and we are therefore in discussions with the senior judiciary about a judicially led review of the civil courts. That will be a major project that examines how best to focus the civil courts on their task. I hope to be

able to announce further details of that review in the near future.

Today's debate gives members an early opportunity to raise issues that they wish the civil justice plan or the review of civil courts to address. I look forward to hearing what members have to say. We are happy to accept Kenny MacAskill's amendment because his point is well made. Affordability is one of the key issues that will have to be addressed.

I move,

That the Parliament recognises that an effective and efficient civil justice system is a crucial part of the foundations of a peaceful and prosperous society and welcomes the commitment to undertake a programme of work to modernise civil law.

15:09

Mr Kenny MacAskill (Lothians) (SNP): I thank the minister both for her comments and for accepting my amendment.

It should be said—and put on the record—that we have been well served by the legal system in Scotland. That is not to say that there have not been difficulties and injustices or that they do not continue to arise. Sylvia Jackson's point was well made and I will return to it if I have time, but in civil matters the legal system has served us well. However, we are now in the 21st century and our society is much more complicated than it was, so we need to address matters and to change.

The six areas of concern that the minister mentioned are all aspects that need to be examined. I will not be able to go through them all, but there are some aspects, which I have discussed with the minister before, that should be mentioned. The purpose of our amendment was to add to, rather than detract from, the basis of the debate that the Executive has introduced.

Difficulties relate to the affordability and accessibility of justice. We are well aware of the difficulties that victims of domestic violence face in finding a legal aid lawyer in some areas; I am told anecdotally that a legal aid lawyer is not available in Galloway or Peebles except to established clients. That is not necessarily a criticism of changes that have occurred. Some of that is part of the natural evolution of our high streets. Sadly, many lawyers and accountants are disappearing, as are greengrocers and bakers. We must address that and how we provide services. That is not simply a case of increasing the legal aid budget, because only so much can be provided. We must examine accessibility while bearing in mind affordability. As legislators, we want to ensure that citizens have access to justice, but we must recognise that what we spend must be

limited, so we must ask how we obtain best value and take it from there.

We must consider why we are in the current situation. It is easy and flippant to say that the cause is that society is much more litigious. That is a knee-jerk reaction, although all members sometimes wonder why some people take recourse to law—if that is available and they have the wherewithal—when they would be better served in other ways.

Fundamentally, we are where we are because society is much more complicated. We have moved on from a generation ago or perhaps even less. The minister referred to the fact that changes have not been made for some time. In the past, the ordinary citizen's interface with the law was almost non-existent and was rare. People who behaved themselves and did not commit a crime would be unlikely to have any involvement with the criminal justice system. Few people owned property—most of our people were tenants and they did not own cars. That was a time before the property-owning, car-owning democracy. People did not have access to the consumer goods that we have today. As a result, people had little need to rush to complain about things that had happened. We did not have the accompanying obligations, the provision of private health services or the difficulties that I am having in securing a car repair under a so-called warranty that might or might not be enforceable. The individual citizen did not face such issues.

We must recognise what has happened and that the situation will not change. However we address greenhouse gases, we will have to deal with mass car ownership for some time to come. There will be bumps and scrapes and we as legislators must provide a system that allows people to address them. We are grateful for the changes that have occurred in our health service, for the opportunities to treat illnesses and for individuals' right to seek treatment. None of that was available before. Now we must ensure that we have a legal forum, to provide balance when the health service refuses to make provision. We have access to consumer goods, material wealth and individual possessions that were not within our conception many years ago, such as mobile phones. Such items go wrong and have warranties and people will seek redress, which we must deal with.

Access to justice cannot be simply for those who have the wherewithal or who can afford it. As legislators, how do we provide access to justice at an affordable price without signing a blank cheque for an ever-burgeoning and more complicated system? The minister is correct: specialisation is required. I welcome what has happened at the commercial court at Glasgow sheriff court. However, if we make the system far too

complicated, the danger is that the ordinary citizen will not have access. Does an individual really require to go to a lawyer to deal with a simple bump or scrape that happened because a driver went too fast or failed to indicate? Should the individual citizen have direct access or should that be removed, to be replaced by lawyers who specialise? We must get things correct and review the situation.

I want particularly to discuss the summary cause and small-claims procedures that were introduced, which I welcomed. However, they have not worked as well as we hoped they would. The procedures are still unduly complicated and they require individuals to make several trips to court, which can outweigh the cost or benefit of a claim. The theory that individuals should be able to access courts without going through lawyers is right.

We must not only consider increasing the thresholds. It is not simply a matter of whether a threshold is to be £750 or £1,500—we must consider not only whether to extend the limits, but how to access and deal with the process. I add the caveat that I am persuaded that personal injury cases must be viewed as being distinctive. However, if we pay a sheriff £115,000 plus and give them pension rights and so on, is it appropriate for them to decide on a claim that involves whether a person went too fast or failed to indicate, causing £250 worth of damage to someone's rear bumper? Should they preside over a case involving a claim of £750 in which I say that the wallpapering that I asked to be done was plum-duff but somebody else says that it was absolutely what I asked for? Is that what we should pay somebody to investigate such things?

I do not wish to be flippant about access to law and what is on television, but why can we not extend the operation of a court system beyond the 10-to-4 timescale in which it currently operates? Why do we not consider getting in people who are legally qualified and can act in an investigatory magistrate-type position? They could say to people, "What do you have to say?" and then "We've heard your case. The fact of the matter is that you were 75 per cent to blame because you were going too fast and you didn't indicate. Therefore, we're going to award £275." If a case became legally complicated, it could be remitted to the sheriff. We must allow access. That means opening the buildings for which we pay rates and heating and security bills; it does not mean paying somebody the substantial sum of £115,000 that we currently pay.

As well as addressing thresholds, we must consider how we can allow ordinary citizens to participate. We cannot do that simply by increasing the legal aid budget. We may have to increase it, but all of us would say if we are going

to increase the legal aid budget, the money should go to the victims of domestic violence—to those who have a crying need for it and whom we are not protecting. We should allow individuals to participate because the civil justice system is their system.

We welcome the debate and thank the minister for taking on board my amendment.

I move amendment S2M-4255.1, to insert at end:

"and further notes that such a system, whilst being quick, efficient and just, must also be affordable and accessible to the ordinary citizen."

15:17

Margaret Mitchell (Central Scotland) (Con): I welcome the debate. We support both the motion and the amendment because they recognise the importance of having an effective and efficient civil justice system as one of the basic foundations of a peaceful and prosperous society.

The report by Lord Coulsfield and his advisory group, which was published by the Scottish Consumer Council in response to complaints that the civil justice system was too slow, expensive and complex, noted that a lack of detailed information about how the system operates, costs, who uses the system, disputes relating to the money involved and the duration and outcome of cases makes it difficult to assess the system. Nonetheless, the group identified six main areas, to which the minister referred, that should be reviewed. In particular, it focused on access and on the fact that crippling legal expenses incur disproportionate costs, which makes it totally impractical for individuals to use civil justice to seek redress in cases of relatively low financial value. As the group pointed out, that is because the current civil justice system is based on the time-consuming and costly traditional court-based approach to resolving disputes.

That being the case, the Scottish Conservatives support the view—which the minister expressed—that the courts should be a last resort and that alternative dispute resolution and mediation should be encouraged to attempt to resolve disputes at the earliest possible stage. Where such an approach is not successful or possible, the court procedures must be considered in an effort to ensure that an efficient court system is in place. Such an approach would cut the time that is taken and hence the costs that are involved in resolving disputes. It would also help to address access issues and ensure that the consumer benefits from the review.

My colleagues will cover in more detail other important aspects of the report and the Executive's response, such as the proposals for

changes to civil, publicly funded legal assistance and the call to raise the current financial level of small claims, which we certainly support.

In the time that I have left, I want to mention another aspect of the Scottish civil justice system that the minister mentioned briefly—domestic arbitration. As the background that I will give suggests, that, too, is in pressing need of reform. From about 1986, a committee was set up by the then Lord Advocate to consider the reform of arbitration in Scotland. The committee recommended adoption of the model for international arbitration, which became part of the law of Scotland by virtue of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990, to which reference has been made. The committee continued to work on the provisions of a modern law on domestic arbitration and, after wide consultation, produced a draft arbitration bill in 1996. Due to the advent of devolution, that bill was not enacted, and no progress has been made since.

In the meantime, however, many other countries, including England, the Republic of Ireland and major European and Commonwealth countries, have been reforming and restoring their arbitration laws, both international and domestic, to bring them up to date and make them accessible and user friendly. That not only puts Scotland at a disadvantage in comparison with other countries; worse still, it means that Scotland is seen as a legal backwater in that respect. Parties doing business in Scotland are arranging to have their disputes arbitrated elsewhere and under different legal systems.

Conscious of the difficulty of securing legislative time, the Scottish Council for International Arbitration and the Scottish branch of the Chartered Institute of Arbitrators developed a Scottish arbitration code, which was published in 1999. That sought to set out clearly the general framework of arbitration and the rules under which arbitration in Scotland should be conducted. Although the code has been widely welcomed and has been recommended by major institutions for use in arbitration, it is only voluntary and all parties must agree to its adoption. The code cannot deal adequately with many matters that can be dealt with only by statute, and it was regarded by its framers as only a stopgap measure pending the introduction of legislation.

A committee for those two organisations has continued to work on arbitration, drawing heavily on the work of the previous committee and having regard to legislative changes in many other countries—in particular, to the Arbitration Act 1996 in England. The result is that a draft bill is now available that seeks to put virtually the whole of Scottish arbitration law into a single statute. The

draft bill contains all the existing statutory provisions relative to arbitration and restates and improves the existing law, both common and statutory. As part of the review of the civil justice system, I earnestly request that the Executive makes the necessary legislative time available to enact that draft bill so that, for the first time in Scotland, the businessman will have easy access to the whole law relating to arbitration, thus bringing Scotland into line with the rest of western Europe and major commercial countries throughout the rest of the world.

15:23

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): The scope for debate on civil justice is broad; therefore, we have a broad motion from the Executive. Members will focus on the areas that are important to them. As the minister stated, everyone is touched by civil law, even if they are not aware of it. However, when they wish to enforce their rights under civil law, many people cannot easily access information and advice on their rights. As the minister stated, the costs are often disproportionate to the dispute issues, which puts many people off seeking redress.

I am glad that there will be a full judicially led review of the courts system, but I would like the review's remit to ensure that it knits closely with the work that is already being done with regard to access both to advice for legal assistance and to civil justice. Civil justice needs to be transparent, and transparency is about justice being seen to be done in a community or household. It is also about justice being accessible to people, easily available and easily understood.

Soon after I became the Liberal Democrat spokesman on justice, I said that someone with no legal background was not necessarily at a disadvantage in speaking about justice. However, my view—which has been confirmed over the past year—is that we could not have invented a system with a language that was more exclusive, elitist and inaccessible. I came across an example of that last week when I spoke to a constituent about the availability of legal aid in solemn cases. The constituent did not know what a solemn case was and was confused after reading the explanatory memorandum to the bill. They asked why the explanatory memorandum could not simply say in plain English that it was, for example, a judge and jury trial.

To say that the whole system is elitist and inaccessible is a generalisation. Some people work tirelessly for those who are not fortunate enough to be able to afford the best lawyers. One of the basic tenets of our approach in Scotland is that as a result of legal aid, people who cannot

afford the best lawyer could have her or him represent them.

Some of our more modern reforms to the justice and protection system in Scotland, such as the children's hearings system, have adopted a far more relaxed and informal approach, which is more inclusive and accessible.

We can see how complex the system is in planning disputes and employment cases and even in small claims cases, which we have heard about. A website is available to help members of the public translate the jargon and terminology of procedures. Indeed, the victims of crime in Scotland website includes a section called "JargonBuster". There is a growing business in consultancy services for companies and individuals; they do not offer legal advice, but interpret the system to get legal advice. We need to change that.

For members of the public to access clear advice and information on the civil justice system and their rights, there needs to be consideration of finance. First and foremost, however, the priority must be to provide good-quality, clear and simple information on how the system works, the roles that individuals have and the rights that we enjoy. Such information must be accessible through websites, libraries, community councils, individuals and organisations; the issue should also be taught in schools. Kenny MacAskill made an important point about the many issues of civil law that we will face in the future, whether they concern a mobile phone contract or a rent agreement. We should teach children in our schools about such matters in citizenship courses, so that in high schools in particular children do not learn just about the Parliament and MSPs, but about the rights that they will enjoy as adults. We can enjoy legal rights only when we can exercise them.

When people receive legal advice, in both civil and criminal cases, or if they need advice on employment rights or in planning disputes, access should be equitable. The Executive has been frank in the past in saying that such access is not equitable and that the exclusion of many people on relatively low incomes from legal aid is one of the weaknesses in the current system; that is especially true of civil legal aid, because of a lack of strategic direction among the bodies that provide information and advice. A clear mechanism to relate the supply of services to assessment of need is lacking, as are any clear means to maintain a supply base, either of adequate numbers of solicitors for legal aid work or those who are not legally qualified but provide valuable information. Those ideas are not new; they are all part of the Executive's consultation. I advise Mr MacAskill that I will meet solicitors in Peebles tomorrow to discuss those very issues,

which have been highlighted in the Executive's consultation on access.

We often underestimate the value of the voluntary sector in the civil justice system. If it were not for the voluntary sector, the system would grind to a halt. The voluntary sector provides legal advice from well-organised CAB offices and offers mediation services and financial assistance. Offering good-quality advice on people's rights and the law is vital. CAB offices are efficient. For every case in which people were given advice and assistance by a solicitor in 2004, there were over four times as many housing issues, hire purchase and debt issues, so there is no doubt that CAB offices and the voluntary bodies are efficient and even save money in the justice system.

I am delighted that there is to be a full-scale review of the civil justice system. I hope that the review of court operations will be about not just procedures, but access.

The Deputy Presiding Officer (Trish Godman): We now move to the open debate. I want to call a considerable number of back benchers, so I will keep speakers to a tight six minutes.

15:29

Mr John Swinney (North Tayside) (SNP): It is a pleasure to take part in the debate. I do so on the basis that when the Government takes decisions that I think are good and valuable, it deserves praise and support from the Opposition benches. I am glad that the minister accepted the amendment from my front bench and that my front bench accepted the Government's motion. That gets us off to a decent start.

The Government's Legal Profession and Legal Aid (Scotland) Bill is good and I place on record my appreciation for the time that ministers have obviously spent considering a range of issues that many individuals have raised over many years and ensuring that those issues were properly consulted on. I have certainly had such issues in my case load during my nine years as a parliamentary representative.

The bill will go forward for parliamentary scrutiny in the weeks ahead. Parliament's objective in considering the bill must be to do a comprehensive job and to address the issues that are causing people concern. The Justice 1 Committee previously considered a number of issues in relation to the handling of complaints against solicitors. Several measures were introduced, but regrettably they have not boosted public confidence in the handling of complaints against solicitors, as the members of the Justice 1 Committee hoped that they would. As a result, we

are considering the issue again in Parliament, but our consideration will be much more comprehensive because of the Executive's introduction of the Legal Profession and Legal Aid (Scotland) Bill. I hope that we will be able to reflect on all the issues and concerns that have been raised and to design a system that will adequately address the concerns of members of the public and deliver a much more effective system of handling complaints against solicitors.

At the core of the debates about solicitors and about the bill is the importance of access to justice for all members of the public, whether they want to access the civil justice system or to complain when they believe that they have been poorly served or have been the victims of poor conduct. Equally, it is important that solicitors have access to justice when complaints are considered. Some cases have been in the legal complaints process for a number of years—eight, 10, 12 or 15—and I often reflect on the associated wear and tear on the lives of the constituents who come to me about their concerns and on the lives of the solicitors, never mind on the lives of the people who are caught in the crossfire. It is important that we design a system that ensures access to justice for every party involved in the process.

I very much support the motion and the amendment—I suppose that I should say that I support the amendment that my front bench lodged because I would be in deep trouble if I did not do so. The amendment captures the role of the legal profession and the civil justice system in ensuring that, at every stage, individuals have access to effective legal recourse. It is important that we design an adequate system. The Legal Profession and Legal Aid (Scotland) Bill does that to a considerable degree in addressing the part of the process that deals with complaints against solicitors.

I would like the Government to reflect on a couple of issues in connection with the bill. I am sure that I will also have the opportunity to make my point during proceedings on the bill. The bill goes a considerable way towards designing a good system for the management of complaints against solicitors, but it still has at its core a problem, which is that complaints about solicitors' conduct will still be finally decided on by the Law Society of Scotland. That puts the Law Society in an invidious position, because it has the dual role of promoting the interests of the solicitor community in Scotland and being responsible for regulating the conduct of solicitor members. That represents a fundamental conflict of interest and Parliament must reflect carefully on that when coming to a conclusion on the bill.

I will pursue this issue in the Finance Committee, but we will have to watch the cost to

individual practitioners of implementing the bill. A big cost burden might undermine the access to justice to which Mr MacAskill's amendment clearly refers. That will be important to communities such as those that I represent in rural Scotland.

My final point is related to the intervention that I made on the minister about the non-implementation of sections 25 to 29 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990. If we expanded the range of people who are able to give legal advice, that would tackle the access issue that Mr MacAskill raised. We could also tackle the problems with the availability of legal services to which Mr Purvis referred and which worry us in rural Scotland, and we could ensure that individuals have comprehensive access to justice throughout Scotland. I look forward to hearing the minister's opinion on that point.

15:35

Mrs Mary Mulligan (Linlithgow) (Lab): One of the most important roles of an MSP is the drafting of laws. However, as a Labour MSP and not just a legislator, I firmly believe that the justice system needs to be accessible and understandable to everyone, and that people should be able to be confident that justice will be upheld and administered equitably.

As the minister said, most people will have little to do with the justice system during their lifetime. Fortunately, few of us will be involved in incidents of murder, severe violence or other serious crimes, so when people come into contact with the law, it is most likely to be because of a civil issue. Buying a house, other housing issues, financial claims, personal injury claims and family breakdown are the areas that are most likely to cause people to seek out a lawyer and legal advice. Until such events, most people will not have had contact with a lawyer and, although I know that the lawyers among members will be surprised to hear this, they can be quite overawed at having to make such contact and unsure about how to go about it.

I am sure that I am not the only MSP who has had constituents arrive at their office to seek advice who has referred them to a lawyer. The next question is often, "How do I go about it? Who do I speak to? Can you recommend one?" It would be helpful to have a clearer route to finding a lawyer, which could be particularly challenging if a system develops in which lawyers concentrate on specialist areas to match the specialist courts. The minister referred to that.

In a country such as Scotland, where a significant number of people live outside the cities, it will be important to ensure that everyone has

local access to lawyers with specialist knowledge. The development of courts such as the family law court in Glasgow could also encourage such specialism. Although I understand and accept that there are advantages to such a system, we must be aware of the impact on people's access to the appropriate legal advice.

It is not just lawyers and the courts that can assist with legal problems. Not all problems are black and white and mediation might offer a more appropriate response to dispute resolution. In Edinburgh, the in-court mediation service is funded by the Scottish Executive and managed by the Edinburgh citizens advice bureau. There are also newer pilot schemes in Glasgow and Aberdeen and those projects will assist with small civil disputes.

Mediation is not the answer to every problem, but it must be a viable option in which people can have confidence. I visited various places throughout Scotland during the passage of the Antisocial Behaviour etc (Scotland) Bill and the huge variation in the use of mediation was noticeable, particular in relation to neighbour disputes. Fife stood out because mediation was well established and well used and people had confidence in the system. I am aware that the Scottish Executive has made funds available to the Scottish Mediation Network to raise the profile of mediation; I support that and hope that it will continue. Sylvia Jackson will talk more about the use of mediation in family disputes, particularly where there is a marriage breakdown. The Justice 1 Committee saw the advantages of mediation when it considered family breakdown during consideration of the Family Law (Scotland) Bill.

On the cost of access to civil justice, I will make just three points, as I am conscious of time. First, the cost must not deter people from seeking justice, so appropriate legal aid must be available. Secondly, legal practitioners must be paid appropriately so that they continue to practise in legal aid cases. As we have heard, there has been a reduction in the number of practitioners available. However, lawyers must also understand that legal aid is public money, for which we have a right to demand value. Thirdly, if we agree that alternatives to lawyers and the courts might be more appropriate, we need to consider how those services should be funded. For example, how should mediation be paid for? Should the service users be asked to make a contribution rather than expect the public purse to foot the bill? We should not close our minds to those sometimes difficult questions, which must be debated openly if we are to find a solution to my first point on the provision of affordable civil justice.

I welcome the on-going work to reform and modernise the legal system and I hope that the

minister will consider my points about access to legal advice. We need to find appropriate lawyers to offer that advice and we need to ensure the availability of appropriate advice and assistance, including alternatives such as mediation. We also need to make legal advice and the legal system affordable for everyone. Responding to such issues will contribute to ensuring that we have an effective, efficient and accessible civil justice system. I commend the reforms that the Executive is introducing.

15:41

Mr David Davidson (North East Scotland)

(Con): I take heart from the Parliament's consensual mood this afternoon, which I think is due to the fact that the minister has begun to share some strands of thought in advance of any publication. I appeal to her to listen to the debate in the broadest sense. She should not assume that members raise issues only according to party-political stances or policy lines.

The Justice 2 Committee will certainly be required to do a lot of work on the Legal Profession and Legal Aid (Scotland) Bill. I hate to think how many submissions we will receive. My one appeal on the committee's behalf—I have the support of the entire committee on this one—is that we be given adequate time to give the bill proper scrutiny so that we can take the correct amount of information from those who will give evidence. We need to be able to capture all the views and thoughts so that we can learn from best practice and from the mistakes that have been made.

John Swinney pointed out that the Law Society is required to be all things to its members. In the medical profession, the General Medical Council acts as the registration and standards body and the British Medical Association acts as the trade union. Similar arrangements apply in many of the professions. Perhaps the Law Society could consider that issue and share its thoughts on that with us when it gives evidence to the committee.

Many different bodies, including citizens advice bureaux, are available to give people advice. As Mary Mulligan said, many of the cases that we deal with in our surgeries involve people asking us what to do about an issue. I always make it clear that I am not a lawyer—even if I were, I could not give constituents legal advice—and I point them to the people who really know, who can give them the best advice. Often, especially in rural areas, the issue is who that might be. Citizens advice bureaux provide magnificent services and are trialling new schemes such as those that we have heard much about this afternoon.

Often, the problem comes down to the funding that is available for non-legally qualified advisers, who need to be quality assured—we must have in place systems that give confidence. However, such funding, which will be available under section 45 of the bill, must be bid for on a case-by-case basis. Instead, it should be made available on a block basis so that we can avoid an awful lot of the expensive and time-consuming bureaucracy that prevents people from getting early access to justice.

We need to ensure that people not only get access but get early access to the correct advice. Often, early access can prevent cases from becoming much more complicated and much more expensive to resolve.

The issue for us all today is both access and affordability—not just for those who wish to go to law, but for those who must provide the care. I believe that if substantial charges are made to solicitors—for example for indemnity, which they should obviously have—those will be passed on in costs. No doubt the committee will hear evidence on that in time. We must be careful to take on board the cost of legislation, not just to the public purse but to those who practise and to consumers of advice, and to ensure that we do things correctly.

As my colleague Margaret Mitchell said, we are concerned about the £750 limit on small claims. The minister has her ears wide open on that issue. I suggest that she considers having a scheme similar to that which is used in England. Limits are quite strange things, but if slightly more expensive issues can be dealt with more cheaply, that must be in the interests of everyone, especially the Scottish budget.

Many people who come to surgeries talk about a range of issues. Often their thinking is muddled; they do not have enough information, so they make an assumption or try to be their own lawyer, because they have read something on a website. Although that practice may be all right for some, we must try to get round it to ensure that everyone feels confident that they know where to go to get advice and have confidence in it. If they feel that they need a second bite at the cherry and to get another opinion, they should be allowed that facility. In the business sector, especially small businesses, good advice on legal matters relating to breaches of contract, faulty goods and claims against suppliers should be available efficiently, effectively and as cheaply as possible. The Federation of Small Businesses is very keen on that.

It is encouraging that the minister has come to today's debate with such an open mind. However, I trust that, as the Justice 2 Committee goes through the bill, there will be frequent opportunities

for her to appear before the committee, when required, to keep us updated on her thinking. This will be a long process but, whatever we do, we must ensure that the bill reflects the needs of the Scottish people, not just a demand-based system and budget.

15:47

Dr Sylvia Jackson (Stirling) (Lab): I welcome the minister's introductory remarks, especially the move towards the civil justice review that she discussed, which I am sure we all welcome. As David Davidson said, there seems to be a lot of agreement about what the main issues are.

I am pleased and privileged to speak in today's debate, because I am not a member of either of the justice committees, although I have a particular interest in family law. I have looked at the various reports that have been mentioned. Lord Coulsfield's report has been referred to a number of times, but I want first to talk about the book "Paths for Justice Scotland", which was published in early 2001. It highlighted many of the issues that came out of the Scottish Consumer Council report. The first was that many ordinary people feel alienated from the Scottish legal system. That is the case not for one particular social grouping, but right across the board. The negativity was more pronounced if people had had recent direct experience of involvement in the system.

According to the study, there were two reasons for much of the negativity. One of those was the media. Many respondents with a negative view had no direct experience of the legal system but had repeatedly seen portrayals of courts, lawyers and judges on television and in newspapers. "Paths for Justice Scotland" states:

"The evident influence of the media on the public imagination of the legal system is a direct result of the absence of any competing accurate and regular information flow."

The comment clearly reflects points that many members made about the challenges that we face in Scotland as we consider the community legal service that should be offered. The courts, the schools and the judiciary must consider how to mount a co-ordinated programme of public education, to provide a better understanding of matters that are fundamental to citizenship.

Christine Grahame (South of Scotland) (SNP): Does the member agree that there is a tendency in the broadcast media to treat English law, systems and processes as though they apply to the United Kingdom, which further confuses the public about what happens in Scotland?

Dr Jackson: I agree. Moreover, an accurate picture of the legal system is not presented. As

Kenny MacAskill and the minister said, ours is a modern society that must deal with complex issues and the legal system must move on to address such matters.

The book "Paths to Justice Scotland" also discussed respondents' advisers, such as solicitors. People usually felt good about how a solicitor had dealt with their case, but solicitors often blamed the legal system. The authors said:

"The lawyer, to put it crudely, may blame the law, blame other lawyers, blame the judicial process: should things go wrong—or go too slowly ... Clients thus emerge satisfied with their own lawyers but less than happy with the legal system as a whole."

That was an interesting observation.

The book also highlighted alternative dispute resolution. Most people have accepted that we should do much more to promote methods such as mediation and advocacy to resolve disputes. ADR was much to the fore when the Parliament considered the Family Law (Scotland) Bill. The book's authors said:

"The results of the study have demonstrated very clearly how little impact the development of mediation, conciliation and other ADR techniques has had on the way that the public in Scotland seeks to resolve their ... problems".

Although we have moved on since the book was published in 2001, there remains some truth in that conclusion.

In the context of Lord Coulsfield's report, two obvious issues should be mentioned: the cost of proceedings; and delays. I have been much involved in the situation of non-resident parents who were trying to secure enforcement of contact orders. The costs could rise to around £30,000 and there could be delays not just for one or two years but for a decade, which is not right.

On specialist courts, will the minister comment on whether specialist sheriffs could be moved from Glasgow, for example, to smaller areas, such as Stirling, to provide a specialism for local clients?

In a complex society, we must ensure that justice is accessible, affordable and understandable. Most important, we must ensure that justice is seen to be fair.

I support the motion and the SNP amendment.

15:53

Patrick Harvie (Glasgow) (Green): Like other members, I welcome the debate and the opportunity to discuss the issues. I suspect that members of all parties will support both the motion and the amendment, given how broadly they are framed—this might almost be a subject debate. No member could disagree that the civil justice system should be

"efficient and just ... affordable and accessible",

or that such a system is

"a crucial part of the foundations of a peaceful and prosperous society".

The reform work to which the Executive is committed represents part of the Executive's theme of access to justice, which is an aspiration that many members welcomed. The many barriers to justice can be physical and emotional, but today we are talking about barriers of knowledge, barriers of geography and the availability of services locally, as Kenny MacAskill mentioned, and barriers of finance.

It is often remarked that justice delayed is justice denied. Similarly, justice at a price is justice denied to all but the wealthy few. I welcome some of the remarks in the minister's opening speech. It is good to hear the positive noises about the use of mediation, the recognition of the role of citizens advice bureaux and the statement that pilot projects are on the way. However, we should acknowledge that some organisations, notably Citizens Advice Scotland, have expressed disappointment. CAS's briefing to members for today's debate expresses disappointment that the Legal Profession and Legal Aid (Scotland) Bill

"will only marginally increase the availability of quality assured legal advice."

The briefing highlights

"the precarious ... funding for advice by non-solicitors",

as well as

"the large unmet need for legal advice"

and

"the need for preventative measures".

If we expand services and if the reform that we all want is put in place, there will be many ways other than the courts of ensuring that people can access their rights and justice. However, I want to highlight two examples of legislative work by the Executive in relation to which departments other than the Justice Department have not quite been singing the same tune.

One example is the recent Housing (Scotland) Bill, to which I proposed amendments that would have introduced management standards in the private rented sector. The aim was not to increase the legal rights of, and protections available to, tenants in the sector, but to give tenants additional ways of seeking redress when those rights are denied. For the most part, when landlords harass people or treat them badly, they do not go to court about it; they put up with it or accept it—that is what I did in that situation. For that reason, we have no idea how many thousands of tenants in the private rented sector simply put up with

problems, move on and try to get into a better housing situation.

The introduction of management standards would have allowed people to access the private rented housing panel instead of going to the courts. The panel could have resolved problems more quickly and easily and certainly more cheaply. That ability to resolve problems without people needing to go to court might well have prevented many unscrupulous landlords—who, I am glad to say, are in the minority—from denying their tenants existing legal rights. However, the Executive resisted my amendments and argued that people can go to the courts to access those rights. That trend should be resisted.

The same argument has been deployed in debates on the Planning etc (Scotland) Bill. Jeremy Purvis mentioned a couple of planning cases. Planning cases might not be the first example that we think of in considering the civil justice system, but when a community has worked long and hard to engage positively with the planning system and feels that the eventual decision has been taken on the wrong basis and should be overturned, often in Edinburgh going to court is the only way in which it can overturn it. Some planning decisions are overturned, but people should be better able to access their rights, yet when we seek to give people other ways of doing so, Executive ministers deploy the same argument and say that people should go to the courts for the final redress.

Given that all members agree that we want to give people alternatives to going to court, I ask the minister, in thinking about the civil justice system, to engage with colleagues in other Executive departments on exactly how the argument that people can go to court to access their rights should be deployed during the passage of legislation.

15:59

Christine Grahame (South of Scotland) (SNP): Although I no longer practise, I should declare an interest as a member of the Law Society of Scotland. Also, as I have said in previous debates, I am a former legal aid practitioner and citizens advice bureau volunteer.

I wish to focus on CABx, because they are at street level, where members of the public—often those who are most vulnerable and least able to articulate for themselves—endeavour to access justice, in the broadest definition of the term. I shall focus on the role of the CABx throughout Scotland and then focus on what is happening on the ground, where, for example in the Scottish Borders, there are service reductions. The Citizens Advice Scotland briefing paper to which

Patrick Harvie referred is extremely useful. A particular issue that CAS raises—it is a spend-to-save message—is the need for preventive measures as well as crisis intervention. In my days as a CAB volunteer, the work nearly always involved crisis intervention. People had got to a desperate stage by the time they came in. It is extremely important that we make CABx more accessible and that we fund them. I shall say more on that later.

CABx have a role in tackling social exclusion. The cases that CABx deal with are not usually the kind of cases that a civil practitioner takes on. They are housing issues, debt issues, consumer issues, employment issues and, most often, issues to do with the benefits system, which is a quagmire for most civil legal aid practitioners—people working in CABx are usually experts on the benefits system. In a year when the Scottish Legal Aid Board funded only 118 employment tribunal cases, CAS represented clients in 650 employment tribunal cases, 404 of which were settled out of the hearing, gaining £1.2 million for their clients. CABx are an irreplaceable service. The same applies to benefits appeals tribunals, where legal aid is not currently available. CAS represented clients in more than 3,500 cases in such tribunals, 680 of which were settled in advance of a hearing. For the vulnerable in society, CABx fulfil a vital role. In the Highlands and Islands, there is a pilot project that integrates the role of CABx with the legal aid system. Hugh Henry is quoted as saying that the project is

“an imaginative and effective method of delivering legal advice in the north of Scotland.”

I hope that that will be extended throughout Scotland, particularly to rural areas.

I wish to give examples of what is happening not only in the Borders but elsewhere. I have had letters from throughout Scotland about the closure of CABx. In the Scottish Borders, four offices are to close: Jedburgh, Innerleithen, Coldstream and Chirside. People there will have to get up the steam to travel considerable distances to access citizens advice information elsewhere. However, “elsewhere” is also experiencing cuts. There are cuts in the major towns of the Borders—Peebles, Hawick and Galashiels—where opening times are being reduced by 13 hours. People from the smaller towns will find that even the offices that remain open are overstretched. The money involved—some £50,000 from the council—is not substantial. I will go on to say where the funding stream for CABx should come from.

Another extremely important point that is made by CAS is about the precarious nature of the funding. That is true for CABx throughout Scotland. As an example of the impact that funding cuts will have on a deprived area, I note

that unemployment in Hawick has increased by 16 per cent in one year, due mainly to losses in the textile industry. Figures from Hawick CAB show that there has been a 400 per cent increase in debt cases in the past six years. Every single one of those cases no doubt involves an individual or family at crisis point. The total debt in the Hawick area, which Hawick staff are dealing with, is more than £5 million, yet Hawick CAB's hours are being cut. I would like the ministerial team to take a good look at that level of civil justice. Maureen Bennett, who is the manager of the CAB in Hawick, has said that the figures are the tip of the iceberg. There is no doubt that the collective debt could rise. The CAB in Hawick deals with more debt cases than do CABs in some inner-city areas.

I urge the minister to spend to save and I ask him to consider central funding for citizens advice offices, similar to the funding that is provided for legal aid. There could be accountability and an audit trail. CAB offices could provide information, just as every office of solicitors has to provide information to the Scottish Legal Aid Board on every legal aid case. At a time when local authorities are having to make cuts elsewhere, I suggest to the minister that the present system of funding by local authorities is making the most vulnerable people even more vulnerable.

16:05

Bill Butler (Glasgow Anniesland) (Lab): I welcome this opportunity to discuss an aspect of our legal system that is inextricably linked to the creation of

"a peaceful and prosperous society",

as the motion in the name of the Minister for Justice puts it.

The civil justice system is key to the creation of a Scotland where justice is effective, efficient and accessible for all its citizens. I welcome the broad consensus in the chamber in favour of that objective. However, the achievement of that objective will not be possible without reform. In her speech, the minister said that reform of the system was "long overdue". She is right. We need reform of the complaints handling service with regard to the legal profession and we need measures to ensure fair and appropriate access to legal advice and representation.

Evidence, including research in "Paths for Justice Scotland", as mentioned by my colleague Sylvia Jackson, suggests widespread dissatisfaction with the civil courts—or, at the very least, a lack of confidence and a feeling of alienation. I acknowledge the good work that has been done to tackle deficiencies in the system and I warmly welcome the initiative that has provided litigants and other court users in Airdrie,

Aberdeen, Dundee and Hamilton with access to free independent CAB advice inside their local sheriff courts.

As members will know, the concept of in-court advice was originally piloted in Edinburgh sheriff court by the Edinburgh central CAB. Additional projects were all evaluated positively in 2005. Good advice—especially in-court advice and free independent legal advice—can only help to promote fairness and equality and to improve the efficiency of people's passage through the justice system. However, more needs to be done. The evaluation report of 2005 found that, although in-court projects were

"able to address unmet legal need for people involved in court proceedings"

and although the demand for such services was high,

"unmet needs for the services remain."

Hugh Henry has described the projects as being

"an imaginative and effective method of delivering legal advice".

He was right to do so and Christine Grahame was right to quote him. However, as I am sure the Executive will agree, strategic investment in legal advice must be further developed and extended. That is why I am pleased that the recently introduced Legal Profession and Legal Aid (Scotland) Bill, which will soon begin its parliamentary passage through the Justice 2 Committee, has as one of its policy objectives the aim of helping to ensure that people receive advice from the adviser with the most appropriate skills, knowledge and experience. It will do that by enabling the Scottish Legal Aid Board to fund advisers other than solicitors to provide advice and assistance.

The strategic review of the delivery of legal aid, advice and information, which reported to ministers in June 2004, wisely recognised that

"some of the work done by solicitors under Advice and Assistance is very similar in nature to work done by many non-legally qualified advisers who are currently excluded from the scheme."

I therefore welcome the Executive's support in principle for a removal of the current distinction between legally qualified and non-legally qualified advisers. Only a few of the respondents to the consultation were opposed in principle to that eminently sensible reform. In a spirit of consensus, I also note Mr Swinney's support for it in his very sound contribution.

I wish to put on record some concerns that were expressed to me at a recent meeting with representatives of CABs. These issues will no doubt be discussed as the bill is subjected to interrogation by the Justice 2 Committee and the

Parliament. I merely state the concerns to allow the minister or the deputy minister the opportunity to make an initial response, if they wish.

At my meeting with CABx representatives, it was made clear that although the bill is most welcome, in its present form it will not give the Scottish Legal Aid Board the power to provide grant funding for the provision of legal advice by non-legal advisers. The bill provides only for SLAB's funding of solicitors on a case-by-case basis. Surely a more radical approach is required. Another concern that was raised was that to fund the provision of advice on such a basis would amount to a form of means testing. Is that the correct approach to adopt? I hope that that question will get a reply. Finally—I am short of time—the worry was expressed that the bill's approach might stifle or at least make it more difficult to innovate and to offer preventive advice. Is there not something to that concern?

I am sure that those and allied matters will be dealt with in due course. This afternoon, in common with the representatives of all the other parties in the Parliament—although I await the speech by the Scottish Socialist Party member—I welcome the Executive's general approach to the refashioning of Scotland's civil justice system. It is clear that the aim is to adapt arrangements as speedily as possible so that they deliver a system that is accessible, equitable and efficient for all Scotland's citizens. I commend the motion.

16:11

Colin Fox (Lothians) (SSP): As ever, the SSP's view is greatly anticipated, but it will remain a mystery until I have completed my introductory remarks.

As other members have said, we are discussing a wide-ranging preliminary review of the civil justice system in Scotland. In the brief time that I have been allocated, I want to concentrate on a small number of areas.

I welcome the Executive's commitment to modernise the civil justice system in Scotland, but only on the assumption that modernisation will provide greater and more equal access to the law than is available at the moment. In whose interests modernisation is being undertaken is often a moot point and that is an issue that we will have to tackle today and in the months to come.

In passing, I must say that yesterday's announcement that people who have been subject to miscarriages of justice will have their compensation rights withdrawn or diminished does not mean modernisation in my language, although I assume that the United Kingdom Government would describe its proposal in that way.

Bill Butler: Does Colin Fox acknowledge that that is a proposal that may or may not proceed south of the border and that the Executive's ministerial team was behind the provision of funding—£50,000, I think—for the Miscarriages of Justice Organisation? Does he welcome that approach?

Colin Fox: I welcome Bill Butler's intervention and the fact that the Miscarriages of Justice Organisation has received that funding, which I hope will continue. My point is that the denial of people's liberty by the state—often for many years—is surely one of the most heinous violations of life itself. The Government's announcement may have been about a proposal, but I am sure that I was not the only person who was disgusted by it.

I fully support money being made available to victims of crime—I am sure that all members would agree with me on that—but that should not happen at the expense of victims of the state. In my view, it is wrong to impose an arbitrary cap of £0.5 million on payments to people who have been wrongly convicted of crimes. That is a lot of money, but it is little when one considers what a severe penalty it is to have one's liberty taken away in error, which often happens as a result of a conspiracy by agents of the state. Paddy Hill, the Guildford four, Robert Brown, T C Campbell and too many others have suffered an irreparable loss from which they will never recover.

If the Labour Party were in opposition and the Tories introduced such a measure, I would like to believe that Labour members would jump up and down in protest. If the minister wants to assure me that she has no plans to introduce such measures in Scotland, I will let her speak.

Cathy Jamieson: That is exactly the point that I wish to make. Colin Fox is referring to a proposal that is to be discussed in another place. There are no plans for similar proposals here. *[Applause.]*

Colin Fox: Like other members, I am delighted to hear that. I look forward to that promise being kept.

As far as civil justice is concerned, there is a widespread belief among people who have never used the law or needed access to it that everyone is equal under the law. That is a noble principle but, unfortunately, it is a delusion. The constituents whom I and other members see on a weekly basis are under no such delusion. When someone needs to access the law, they find that some people are more equal than others. People who have money have greater access to the law than those who do not.

It is interesting to note that, as far back as 1980, the Royal Commission on Legal Services in

Scotland—the Hughes commission—criticised Scotland's civil justice system for being

“unduly cumbersome, slow and costly”.

The Hughes commission said:

“persons wishing to assert or defend their rights are sometimes unwilling or financially unable to resort to the civil courts in Scotland.”

The Hughes commission called for a review of the civil justice system in 1980. As the minister accepted in her speech, too little progress has been made since that time. On that score, I welcome the Executive's commitment to look at the issue.

Clearly, what is important is the nature and scope of the review. Like other members, I want to focus my remarks on the Scottish Executive's description of the nature and scope of the review as providing

“a system that is fit for its purpose in the 21st century—modern, inclusive, accessible”.

I think that all members would support that. However, the key question is whether the review will improve access to justice and lower the cost of litigation for those who need to access legal advice. Kenny MacAskill, Margaret Mitchell and Jeremy Purvis made valuable points in that regard and highlighted the fact that, although access to justice is a fundamental human right, it is compromised or denied by the punitive cost of legal advice and representation. I look forward to seeing the Scottish Executive's plans for reform.

My final point is on the provision of legal advice by non-solicitors. Other members touched on the valuable briefing that we received from Citizens Advice Scotland in that regard. As part of the review, I hope that consideration will be given to increasing the number of local law centres such as those in Govan and Paisley. I also hope that the minister will consider the important point that Kenny MacAskill and Christine Grahame made about the successful Highlands and Islands part V project. I hope that that project will be rolled out across the country.

I look forward to the plan that the Executive intends to publish in the summer and to the measures that it will introduce to ensure that working people get the legal aid and advice that they need.

16:17

Pauline McNeill (Glasgow Kelvin) (Lab): I have written to Cathy Jamieson, as I did to her predecessor, Jim Wallace, to ask for more attention to be paid to reforming of our civil justice system. Like other members, I whole-heartedly welcome Cathy Jamieson's announcement that she will lay out a plan to reform the system.

I also welcome the minister's response to Colin Fox this afternoon, when she said that the Executive has no proposals to adjust the compensation scheme for victims of miscarriages of justice. However, I am concerned about the UK Government's proposals for criminal injuries compensation. I hope that the Executive will have something to say about that. I also want to echo what Bill Butler said: we are making progress in developing a system that supports those who have been the victims of miscarriages of justice. I welcome all that the Executive has done in that regard.

Our criminal courts have rightly been the priority in our court system. I have always argued that there are branches of civil law that require an equal level of priority because they so deeply affect the lives of the people whom we represent. In particular, the priority that is given to family law should be similar to that which is given to our criminal courts.

As politicians, we need to be clear about what our objectives are in reforming our age-old system. Lord Woolf said that the cost, delay and complexity of the system are problems that are inherent in an adversarial system in which conduct, pace and the extent of litigation are left almost completely to the parties themselves. Taken together, those problems restrict access to justice.

We need to set down our objectives for reform. “Access to justice” is just a phrase; we need to work out what it means in terms of the speed of decisions; the causes of delays; the effect of court procedures; the cost of going to court; the availability of court time; and the fairness to parties and those who represent us in court.

Civil procedure in Scottish courts is a whole new language. I am not a lawyer at all and certainly not a civil lawyer, but I have seen some civil papers and it seems to me that there are some rather long and drawn-out procedures. It is a language that no one apart from civil lawyers can understand—no offence intended to anyone. We need to examine the level of complexity in the system because it might be the heart of the problem.

Lord Coulsfield has already made some proposals that have taken effect and he should be given credit for the work that he has done to shorten the procedures in civil proofs. Indeed, my efforts and those of Bill Aitken, my colleague on the Justice 2 Committee in the previous session, working with the judiciary, resulted in a shortened procedure in personal injury cases as a result of a petition from Clydeside Action on Asbestos. Although we have further work to do for the victims of mesothelioma, that previous work should be acknowledged. Bill Aitken and I know, because we have been along to Lord Mackay's court, that

having a preliminary procedure contributes greatly to reducing the overall time that is involved in getting victims to court. I understand that, far from taking two or three years as it used to, the procedure has been shortened to six months in some cases. However, we need to do more.

It is often the case that those who are most excluded from society in general are equally likely to be excluded from the legal system. In particular, women who apply for protection from abuse interdicts, which is a civil procedure, will have child benefit counted as income for the purposes of legal aid. That does not seem to me to be a fair way of assessing who is poorest and most in need of public funds.

It would be wrong to assume that the civil system is accessible to those on modest or average incomes. The cost of taking a civil action is high and, importantly, not easy to predict. We must examine the whole system, not only what happens in court but what happens when people get advice. Lawyers need to consider closely the transparency of their fees. Ordinary citizens will know, if they have been for advice, that it is difficult to get a lawyer to say one way or the other what the costs of action will be. I am sympathetic to the reasons for that, because it is not always possible to predict the costs, but it is not acceptable that we persisted for so long with lawyers not issuing letters of engagement to their clients. Through the work of the justice committees, the Law Society has recommended that its members should tell their clients roughly what they should expect in the preliminary stages of taking legal action.

The area of law that is in need of most reform is family law. The need for speed, the need to reduce delay and the need for accessible and affordable justice are nowhere illustrated more clearly than in family law. Sylvia Jackson and I talked at length during the passage of the Family Law (Scotland) Bill about the absurd procedure in which it is possible to be found in contempt of court and go to the beginning of the proceedings to amend the original action. I am running out of time and I wanted to say a lot more about that.

We need to speed up the system and make it more affordable. That is what access to justice is about, but we must not miss the point that the procedures need to be simple and easy to understand. If the Executive wants to open up the field not only to lawyers but to non-lawyers, it cannot continue with a system as complex as the one that we currently have. Lawyers might be a bit nervous about some of the action that we are taking in the Parliament, but there is an unmet need. Loads of people who need to take action in our courts will never get near them because they do not have the money or resources to do so.

There is plenty of work for everyone and we need to reform the system with those objectives in mind.

16:24

Mike Pringle (Edinburgh South) (LD): Our justice system is one of the cornerstones of our society. It protects, defends and secures the future of our citizens. However, recent surveys have found that many people lack confidence in our system, specifically the civil courts. We have an obligation to provide our citizens with the best legal opinions possible in order to protect their rights. Therefore, we must review our current legal system to determine the most efficient and effective way of providing high-quality legal information, advice, assistance and representation to all of Scotland's residents.

I particularly agree with Sylvia Jackson and Pauline McNeill's comments on family law. I, too, was a member of the committee that dealt with the Family Law (Scotland) Bill and there is no doubt that we need to change things in that area.

The Executive has examined the need for legal advice, the need for preventive measures and the nature of funding for legal advice, but those issues remain problems today, so more must be done. Our legal system often perpetuates inequality because those who are already disadvantaged are hurt more by a lack of access to legal information and representation. In 2004-05, more than 244 cases were denied representation due to a lack of resources. We must re-examine our legal system to ensure that nobody falls through the gap. I agree with Jeremy Purvis, John Swinburne, Colin Fox and the other members who highlighted the issue and said that everybody has a right to legal advice. We must make sure that everybody has access to good legal advice.

We have made progress. In 2004, the Executive completed a strategic review of publicly funded legal advice. Additionally, the Executive is working with local authorities to assess the need for legal aid and with the Scottish Mediation Network to promote greater awareness of mediation. We have increased mediation and brought to life the commercial court at Glasgow sheriff court. Those are good steps. We now need to discuss ways in which to extend those successes. We need to build on what we have already done in order to secure a more efficient judicial system for Scotland, so I welcome the minister's comments on the review of civil justice.

I want to raise one particular issue, which is the small claims procedure in Scotland. Kenny MacAskill and David Davidson mentioned the small claims court, but I will go into a bit more detail. As David Davidson said, the current limit in Scotland was set in 1988 and is £750. The limit

south of the border is £5,000. I agree with Kenny MacAskill that small claims could be dealt with outside the court system. That is a good idea and I hope that the minister will consider it. What does £750 cover today? Not much. If someone has a claim in relation to a family holiday, a home improvement, an extension or a large car repair, £750 will not come close to solving the problem.

The small claims procedure provides a simple means of redress in civil matters, but it is letting down a large number of people. Mary Mulligan talked about people in her constituency who have had problems with legal advice. Several of my constituents who have been dissatisfied with the small claims procedure have come to me to ask what I can do. The problem is that I can do very little. I refer them to a lawyer, but they say that they have already been to a lawyer and that it cost them a substantial sum.

People on low incomes should be exempt from the mandatory court fee, which is £36 when the claim is for £50 or more. I do not think that many claims in the small claims court are for less than £50. In England and Wales, people on certain benefits are exempt from some court fees following a High Court decision that access to the civil courts is a constitutional right. Moreover, I suspect that the lack of an exemption might be open to a challenge under article 6 of the European convention on human rights. All successful litigants should be entitled to recover the court fee regardless of the value of the claim.

At present, when the claim is for £200 or less, the successful party in a defended case is usually not entitled to any expenses, including the court fee. That rule is likely to deter those who may have a valid claim for a small sum but will be unable to recover the £36 court fee, given that £36 is still a significant sum for many. I have raised that issue with the minister on a number of occasions in the past couple of years. Perhaps somebody could say what progress has been made recently.

We must examine civil court reform. There is no clear-cut answer, although the experience of the commercial court at Glasgow sheriff court suggests that there might be a place for judicial case management and a greater use of information technology. However, more than anything, we need to take an in-depth look at the functioning of our civil courts while keeping in mind the complexity of the issues that are at hand.

Reinhold Niebuhr once said:

"Man's capacity for justice makes democracy possible, but man's inclination to injustice makes democracy necessary."

We have an obligation to use our power as the Government to protect all of Scotland by providing

every person with the ability to achieve justice. Let us undertake a comprehensive examination of our civil courts and strongly consider the reforms that the minister suggested. I support the motion and the amendment.

16:30

Bill Aitken (Glasgow) (Con): Times change, society becomes more complicated and life generally becomes more difficult. On that basis, the Executive is correct to examine the operation of the civil justice system. The Scottish system may not be the acme, but it does a reasonable job, although that is not to say that it could not do a better job. We certainly need to examine it. Lord Coulsfield dealt with the proposed changes under six headings. I will go through them and relate them to the speeches that members have made in this extremely constructive debate.

Several members have mentioned the disproportionate cost of litigation, particularly in low-value cases. That is undoubtedly the situation. For members, £200 or £300 might not be a great deal of money, but it is a significant amount to a person who has a very low income. If someone has suffered injury or loss, they should be entitled to recover their money without having to spend £250 to get it back. We must examine how the system operates and we must acknowledge that it does not operate terribly well. Whether we go down the English route of allowing substantial sums to be recovered under the small debt process, or whether we consider introducing another process—Kenny MacAskill hinted at that—will become apparent as the matter goes through the committee and parliamentary process.

It is true that many civil cases are disrupted because criminal cases are given priority. There is no other way to deal with the situation. Sometimes civil cases are lengthy and complex and the demands on senators of the College of Justice are considerable. Sometimes it is not possible to start and finish a case without stopping. In the intervening period, a judge can be tied up in criminal cases, frequently on the circuit. I do not think that much can be done to change that, but we should by all means examine the system.

The potential benefits of increased specialisation of courts or judges have been considered. That has undoubtedly worked in Glasgow but—as Sylvia Jackson asked—what would happen in a two-sheriff jurisdiction, for example? I suggest that each sheriffdom could have a specialist sheriff for various headings. If a commercial matter had to be dealt with in Stornoway, the sheriff who was the commercial judge in the sheriffdom of Grampian Highland and Islands could go there, although he might normally be based in Inverness. That is not a problem that cannot be overcome.

For the reasons that Pauline McNeill articulated, I am keen on judicial management of cases. That has undoubtedly worked with the mesothelioma cases—Lord Mackay drove them firmly but gently and achieved early resolution—but the system is far too complicated. When something is done for which someone is liable, the current delays in settlement should not occur. I suppose that I am a poacher turned gamekeeper, in that I used to work in the insurance industry. Insurance companies are guilty, particularly in personal injury actions, of settling at the door of the court, which is unacceptable and must be addressed. If we had much firmer judicial management and a tougher approach to the delays that seem to be built into the system, we could make progress.

Several members, including Mary Mulligan, talked about the level of legal aid payments. Far be it from me to plead a case for members of the legal profession—most of whom do not appear to have missed too many meals—but the fact is that there are constant complaints about legal aid levels, particularly in civil cases. Fixed fees, which have been applied in criminal matters, have not been entirely successful—indeed, as the minister will be aware, a case is kicking around the European system that may produce a less than satisfactory result from the Executive's perspective. That case will have to be considered. Perhaps fixed fees are not always the answer.

The final point that Lord Coulsfield raised was that many judgments are made and delivered but cannot be enforced. That situation is ludicrous, so we must examine it carefully.

Other points have been made: Bill Butler pointed out that the Scottish Legal Aid Board cannot fund any legal assistance that is provided by unqualified persons. On the face of it, the Scottish Legal Aid Board's being able to fund citizens advice bureaux, for example, is an attractive idea, but there is a problem with it in that citizens advice bureaux will not have professional indemnity insurance. If things go pear shaped with an action, the constituent or client will not be able to make a recovery, whereas if a lawyer is involved, there might be a recovery, depending on what had happened. That recovery would be paid by the insurance company under professional indemnity insurance.

The matter that we are discussing is complex and interesting, and I think that progress will be made on it when it is considered in the parliamentary process. However, we are content with the proposals that the Executive has made and with Mr MacAskill's amendment.

16:37

Stewart Stevenson (Banff and Buchan)

(SNP): The debate has been characterised by a variety of insights into the system and by a useful degree of consensus—there has been greater-than-usual consensus on the front benches. I can speak comparatively free from the tickle in the back of my throat entirely as a result of an intervention by the Deputy Minister for Justice, who passed a peppermint to me earlier in the debate. He is an old sweetie.

The Deputy Presiding Officer (Murray Tosh): I should point out that eating in the chamber is against the standing orders, Mr Stevenson.

Stewart Stevenson: I am not sure that I said that I ate the peppermint, Presiding Officer.

That aside, what happened neatly illustrates a legal dilemma that I might have in the civil justice system. If I fall ill this evening during my drive north to my home, I do not know whether I should sue the deputy minister—of course, he might be subject to parliamentary privilege in that regard—or the manufacturer of the peppermint. I did not see who the manufacturer was, although I think it was Trebor, which is of course a highly respectable company.

Bill Aitken: Despite Mr Purvis's admonitions about using technical language, does Mr Stevenson agree that it would be a case of *volenti non fit injuria*?

Stewart Stevenson: Mr Aitken illustrates his ability to turn from poacher to gamekeeper. In his role as a poacher, that would be a matter for the criminal law. I expect sanctions to be levied against him in due course.

It is interesting to examine the attitudes of those of us who are not lawyers to the legal profession. Early in my professional career, I worked with an eminent company of lawyers in Edinburgh called Maclay Murray and Spens, which was universally known as Delay, Worry and Expense: chant the name together—we all know it. The name perfectly illustrates the attitude of lay people towards civil justice and lawyers in general. For many people who are not poor enough to be supported in pursuing legal actions or wealthy enough to pursue legal actions to the point of absolute resolution and satisfaction, going to law is genuinely difficult.

In her introductory remarks, on the first of her six points the minister talked about disproportionate costs. She made the fair and absolutely reasonable point that going to court is costly just to get £750. However, what she did not mention, although it was mentioned in the strategic review on the delivery of legal aid, advice and information, which started in 2003, was that there

is disproportionate risk and reward for the different parties when a large corporation and a private individual are in confrontation before the courts. The review document acknowledges that under the heading, "Ensuring equality before the law". In fact, the document goes further than that.

The minister may recall that my colleague, Fergus Ewing, wrote to her on 7 April about one of the voluntary organisations in his constituency, which believes that it may be about to be sued. As a voluntary organisation, it is not entitled to civil legal aid and has limited resources to resist the depredations of a large company that is threatening—however indirectly—to sue it. It is a difficult and complex area, and the fear of runaway costs will be a huge deterrent to a company's going to law to defend its interests, whether to pursue someone or to defend against an unreasonable attack from a large body. The members of the review panel—unusually, although I am not sure why—included a representative of the Big Lottery Fund board. In many ways, that perfectly illustrates that going to civil law can be, for many people, a bit of a lottery.

Kenny MacAskill, who is a lawyer, spoke of his difficulties in enforcing a warranty. If a lawyer says that it is difficult—

Mr MacAskill: A retired lawyer.

Stewart Stevenson: My colleague reminds me that he is a retired lawyer.

My spouse, on the other hand, has had a similar issue in relation to a minor bump that she had in the car. Fortunately, she had inadvertently ticked the box on her insurance application and paid the extra £10 to get legal support. When she got it, the support was excellent: she had no fears about the costs and she got her excess back from the other party, who had caused the accident. Had she not ticked that box, the £300 in question would have gone west.

This has been a useful debate, which has touched on many aspects of life in Scotland. More and more of us are becoming engaged in civil law and, perhaps, in criminal law. The efficiency and effectiveness of court processes must be addressed, but we must also consider how we can give people affordable access to more efficient processes. In speeding things up, we cannot trade off thoroughness and fairness against speed because one party's advantage may, in certain circumstances, be another party's disadvantage. It is complex, and we wish the minister well in her endeavours on this. When she gets it right, we will support her.

16:44

The Deputy Minister for Justice (Hugh Henry): I state for the record that any possible by-election in Banff and Buchan is the unintended consequence of an act of human kindness.

Today's debate has been useful. It has shown that, for too long, we have concentrated on aspects of our criminal justice system at the expense of addressing some of the difficulties that have been developing in civil law. We have heard how much civil law impacts on all our lives in myriad ways, some of which are more obvious than others.

Having spent so much time and effort driving through major reforms in the criminal justice system, it is right that we now take a step back and consider what is needed in the civil law system. Our intention behind today's debate was not to offer a prescription or a blueprint, but to ask people to stop and think about what we need to do for the future. We want genuinely to engage people in a wide-ranging debate. We have already taken steps to talk informally to stakeholders in civil law to find out from them what the difficulties are and what their ideas are. We have made informal approaches to the judiciary to inform it of what we intend to do and I hope that we will, following the debate this afternoon, be able to engage with members of the Parliament about changes that are needed outwith the formal parliamentary process.

It is incumbent on us to be realistic about what will be required. There is no way that we will resolve all the issues of civil justice in the next 12 months. We are putting down an early marker, but we will have to leave it to a future Administration to develop and deliver the plans, although it is right that we touch on some of the more immediate issues.

This afternoon's debate has inevitably covered some of the detail of the forthcoming Legal Profession and Legal Aid (Scotland) Bill. I mention that in passing, but do not intend to go into too much detail because we will have further opportunities at stages 1 and 2 of the bill to examine the detail.

It is important to remember that although we have been concentrating so much on criminal law, we have not entirely neglected civil law. Pauline McNeill and Sylvia Jackson mentioned the great deal of work that we have done in family law. We have also made significant changes to property law in Scotland and Parliament is engaged in further work on bankruptcy and diligence. I have mentioned legal complaints and there is also the strategic review of publicly funded legal advice and assistance. I will return to some of the points that have been raised about in-court advice and

mediation services, on which we have done some work.

We intend that our civil justice plan will set out a framework for reform. As a number of members said, we need to increase access to justice—Kenny MacAskill and Pauline McNeill developed that theme. It is not just about access, however; it is about affordability and ensuring that everyone has access to justice. As Pauline McNeill said, it is about trying to reduce and minimise the complexities in the system.

We want to encourage mediation. Mary Mulligan was right to mention some examples and I pay tribute to the work of the in-court advice and mediation project in Edinburgh. We are using a slightly different model for pilot schemes in Aberdeen and Glasgow. I have met representatives of the Edinburgh project and have spoken to people elsewhere and I have been tremendously impressed by the breadth of advice and experience that have been brought to the process, as well as by the swiftness with which resolution can be achieved outwith the formal court process. Where that can be done, it should be done. The best way to progress is to ensure that going to court is the last resort. However, if a case has to go to court, the process should be quick and cost-effective. As Kenny MacAskill and other members have said, the response should be proportionate to the case. I will return to points that were made about small claims.

Margaret Mitchell spoke about arbitration. We have been considering how to deal with arbitration in the proposed arbitration bill. However, it is not just a question for the Executive because there are issues about the parliamentary time that is available before the next election. Both the justice committees are fully engaged with a number of bills and there will be no opportunity to progress an arbitration bill. However, it is right that we put down as a marker our support for use of arbitration and that we recognise the contribution that it can make. I hope that a future Parliament will return quickly to the issue to consider what needs to be done and how it should be done. Indeed, there may well be issues that can be addressed outwith legislation—we should move on that. However, where legislation is required, it must be considered.

Kenny MacAskill, Mike Pringle and David Davidson spoke about issues around small claims. The Minister for Justice has indicated her support for changes. Kenny MacAskill spoke about the ludicrous nature of the limits for small claims, to which David Davidson, Bill Aitken and others also referred. However, on the point that was raised about personal injuries, it is right to record that we have made it clear for years that there is no way that we will support personal injury cases being

dealt with in the small claims court. There is a separate issue to be addressed about whether personal injuries are best addressed in the Court of Session or whether there is an opportunity to develop expertise in the sheriff courts, as Pauline McNeill and Bill Aitken suggested, because expertise in commercial law is developing. We need more discussions on that.

John Swinney raised a number of issues arising from his interest in the Legal Profession and Legal Aid (Scotland) Bill. We can return to the question of the levy later on. Suffice it to say that we have laid out a framework for and suggestions about the balance between the general levy on people across the profession and an individual levy on those against whom a complaint is made, but we have no particular view about what that should ultimately look like. We have given our initial suggestions and we believe that it is right that the Scottish Law Commission should consider the issue. Its engagement in discussions with the legal profession should determine what the balance should be. We have said that no additional costs should be involved for the profession as a whole and that we do not think that there is a need for further expenditure. However, I am willing to engage in discussion at this stage on how any expenditure should be levied for, though I remind people that we believe that the Scottish Law Commission has a role in taking forward that discussion at a future date.

Issues have been raised about the availability of legal advice and about non-qualified legal advisers. Again, I will come back and discuss that with the Justice 1 Committee as the Legal Profession and Legal Aid (Scotland) Bill proceeds. However, we are committed to ensuring that a variety of sources is available for advice work. Reference was made during the debate to the advice work that the Scottish Legal Aid Board has funded. I recognise the value of that and I want it to continue. However, on CABx, I put on record that funding is not determined by the Scottish Executive Justice Department.

There is a particular issue on which Parliament must reflect; I have made this point before in debates. MSPs have told the Executive on a number of occasions that we should not interfere with decisions that are made by local authorities, which are funded to carry out work at the local level. However, we are also encouraged to take centralised decisions on funding for local agencies.

Christine Grahame: I hear clearly what the minister is saying and I believe in democratic local government. However, in this instance, when we are trying to take a broad view of the justice system and accessibility to it, I would like the minister to consider regarding CABx as an integral

part of the justice system and have them funded by the Justice Department. I ask the minister to consider that, at least.

Hugh Henry: We must acknowledge that CABx do more than just give legal advice. There is a particular issue that we must address, which is people's belief that the question of Executive funding for local authorities to deal with local matters is not being properly addressed. Do we want to centralise funding or should we continue with the current model? We need a separate debate on that.

Sylvia Jackson mentioned specialist courts. There will be an interesting debate to be had with the judiciary about what will develop because such courts would be largely its responsibility. Mary Mulligan and Jeremy Purvis touched on issues regarding the voluntary sector, which I think will develop apace.

I believe that the debate has been a good starting point for a debate on civil justice. We have acknowledged the contribution that lawyers, many people in the voluntary sector and the CABx make. We have also said that we have an open mind on how the future system should be developed.

We genuinely want to hear new ideas and to stimulate debate about how legal advice should be provided. I hope that, in the coming year, we will be able to reach out, through Parliament, to a wider section of Scottish society to ensure that what we do reflects the best interests of the people whom we represent, and that it represents best practice in respect of what we choose to proceed with.

16:55

Meeting suspended.

17:00

On resuming—

Parliamentary Bureau Motions

The Presiding Officer (Mr George Reid): The next item of business is consideration of six Parliamentary Bureau motions. I ask Margaret Curran to move motions S2M-4259, S2M-4260, S2M-4261 and S2M-4262 on the membership of committees; motion S2M-4258 on substitution on committees; and motion S2M-4254 on rule 2.7.2.

Motions moved,

That the Parliament agrees that Bruce Crawford be appointed to the European and External Relations Committee.

That the Parliament agrees that Ms Maureen Watt be appointed to replace Bruce Crawford on the Local Government and Transport Committee.

That the Parliament agrees that Euan Robson be appointed to replace Mike Rumbles on the Health Committee.

That the Parliament agrees that Mr Dave Petrie be appointed to the Communities Committee.

That the Parliament agrees that Ms Maureen Watt be appointed to replace Stewart Stevenson as the Scottish National Party substitute on the Subordinate Legislation Committee.

That the Parliament agrees under Rule 2.7.2 that the Parliament shall meet in Committee Rooms 2 and 6 of the Parliament at Holyrood as recommended by the Scottish Parliamentary Corporate Body until 12 May 2006.—[*Ms Margaret Curran.*]

17:00

Dennis Canavan (Falkirk West) (Ind): I wish briefly to speak against motion S2M-4254, on the ground that the existing arrangements for the meetings of the Parliament in this room and the room next door are hopelessly inadequate. This room can accommodate at a squeeze only about two thirds of all members, and it is difficult or impossible to follow or participate in a debate from next door. The situation will be exacerbated during stage 3 proceedings on the Interests of Members of the Scottish Parliament Bill next Wednesday.

On 16 March, I raised a point of order seeking an assurance that the Scottish Parliamentary Corporate Body would consider other options, including the Church of Scotland Assembly Hall, the old Royal High school building, the former Scottish Parliament building on Parliament Square and Holyrood Palace. I was given an assurance that all those options were being considered, but I have heard nothing back from the corporate body. On 13 March, I lodged a parliamentary question asking the corporate body to investigate the possibility of using Holyrood Palace, but I still await a reply more than five weeks later.

Yesterday, I visited the former Scottish Parliament building on Parliament Square. The prestigious Parliament Hall, which is easily large enough to accommodate 129 members, lay virtually empty, apart from the occasional member of the Faculty of Advocates strutting around speaking into a mobile phone.

Today, representatives of the Scottish Rugby Union visited the Parliament with the Calcutta cup. Our sporting heroes had to squeeze into rooms TG.20 and TG.21 because no committee room was available, due to the fact that this room and the room next door are being used for meetings of the Parliament.

The corporate body's failure to respond to my question leads me to think that it is not thoroughly investigating other options. Agreeing to motion S2M-4254 will mean that the Parliament will continue to sit in this room for at least another three weeks. That is an unacceptable situation, which is in danger of bringing our Parliament into disrepute, therefore I ask members to reject the motion.

The Presiding Officer: I have agreed with the Minister for Parliamentary Business that I should respond briefly.

A full options paper indicating costs and alternative locations was presented both to the corporate body and to the Parliamentary Bureau, on which Mr Canavan is represented. The bureau and the corporate body agreed unanimously, as did the Parliament, to meet in committee rooms 2 and 6 this week. Now that we have fuller reports on the situation of the chamber, we are absolutely confident of being back in the chamber by mid-May, and perhaps even a little sooner. That is the background to the motion.

Members can decide on the matter at decision time, to which we now come.

Decision Time

17:03

The Presiding Officer (Mr George Reid):

Twelve questions may be put as a result of today's business. From this morning's debate on a statutory right to drug treatment and rehabilitation, if the amendment in the name of Hugh Henry is agreed to, the amendments in the name of Stewart Stevenson, Annabel Goldie and Margo MacDonald will fall.

The first question is, that amendment S2M-4252.4, in the name of Hugh Henry, which seeks to amend motion S2M-4252, in the name of Rosemary Byrne, on a statutory right to drug treatment and rehabilitation, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

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)
 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)
 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)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Finnie, Ross (West of Scotland) (LD)
 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)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 MacDonald, Margo (Lothians) (Ind)
 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)
 McConnell, Mr Jack (Motherwell and Wishaw) (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)
 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)
 Peattie, Cathy (Falkirk East) (Lab)
 Petrie, Mr Dave (Highlands and Islands) (Con)
 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)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Swinburne, John (Central Scotland) (SSCUP)
 Tosh, Murray (West of Scotland) (Con)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Wallace, Mr Jim (Orkney) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Byrne, Ms Rosemary (South of Scotland) (SSP)
 Curran, Frances (West of Scotland) (SSP)
 Fox, Colin (Lothians) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Martin, Campbell (West of Scotland) (Ind)
 Sheridan, Tommy (Glasgow) (SSP)

ABSTENTIONS

Adam, Brian (Aberdeen North) (SNP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Ingram, Mr Adam (South of Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 McFee, Mr Bruce (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)
 Watt, Ms Maureen (North East Scotland) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)

The Presiding Officer: The result of the division is: For 79, Against 6, Abstentions 19.

Amendment agreed to.

The Presiding Officer: The next question is, that motion S2M-4252, in the name of Rosemary Byrne, on a statutory right to drug treatment and rehabilitation, as amended, be agreed to.

Motion, as amended, agreed to.

Resolved,

That the Parliament recognises that drug abuse destroys lives and tears families apart; believes that improved treatment and rehabilitation should be at the heart of our approach; further believes that there is need to help addicts to move towards a drug-free lifestyle by offering a range of interventions; welcomes the progress made but recognises that more needs to be done, particularly to make sure that treatment is linked to further support, and believes that early intervention is the most effective way of helping offenders and reducing drug-related crime.

The Presiding Officer: The next question is, that amendment S2M-4253.1, in the name of Tom McCabe, which seeks to amend motion S2M-4253, in the name of Colin Fox, on local government pensions, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

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)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 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)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Finnie, Ross (West of Scotland) (LD)
 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)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)

Martin, Paul (Glasgow Springburn) (Lab)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 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)
 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)
 Peattie, Cathy (Falkirk East) (Lab)
 Petrie, Mr Dave (Highlands and Islands) (Con)
 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)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Tosh, Murray (West of Scotland) (Con)
 Wallace, Mr Jim (Orkney) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Curran, Frances (West of Scotland) (SSP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fox, Colin (Lothians) (SSP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Leckie, Carolyn (Central Scotland) (SSP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Martin, Campbell (West of Scotland) (Ind)
 Mather, Jim (Highlands and Islands) (SNP)
 McFee, Mr Bruce (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)
 Sheridan, Tommy (Glasgow) (SSP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Watt, Ms Maureen (North East Scotland) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)

ABSTENTIONS

MacDonald, Margo (Lothians) (Ind)
 Swinburne, John (Central Scotland) (SSCUP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)

The Presiding Officer: The result of the division is: For 74, Against 26, Abstentions 3.

Amendment agreed to.

The Presiding Officer: The next question is, that motion S2M-4253, in the name of Colin Fox, on local government pensions, as amended, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

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)
 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)
 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)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Finnie, Ross (West of Scotland) (LD)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 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)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Mather, Jim (Highlands and Islands) (SNP)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McFee, Mr Bruce (West of Scotland) (SNP)
 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)
 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)
 Peattie, Cathy (Falkirk East) (Lab)
 Petrie, Mr Dave (Highlands and Islands) (Con)
 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)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 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)
 Watt, Ms Maureen (North East Scotland) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Byrne, Ms Rosemary (South of Scotland) (SSP)
 Sheridan, Tommy (Glasgow) (SSP)

ABSTENTIONS

Curran, Frances (West of Scotland) (SSP)
 Fox, Colin (Lothians) (SSP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Leckie, Carolyn (Central Scotland) (SSP)
 MacDonald, Margo (Lothians) (Ind)
 Martin, Campbell (West of Scotland) (Ind)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Swinburne, John (Central Scotland) (SSCUP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)

The Presiding Officer: The result of the division is: For 90, Against 2, Abstentions 11.

Motion, as amended, agreed to.

Resolved,

That the Parliament notes the current issues surrounding the future of the Local Government Pension Scheme (LGPS); recognises that these issues will impact on a wide range of public sector workers; recognises that members of the LGPS contribute to this scheme and want to ensure that there is a viable and sustainable future for it; notes that the correct manner for dealing with the consequences of any changes to the LGPS, or any disagreement in legal opinion in respect of it, is through open and fair discussion with trade unions, employers and the Scottish Public Pensions Agency, and therefore welcomes the decision of

the trade unions to suspend strike action as a result of the constructive dialogue which is currently taking place.

The Presiding Officer: The next question is, that amendment S2M-4255.1, in the name of Kenny MacAskill, which seeks to amend motion S2M-4255, in the name of Cathy Jamieson, on civil justice, be agreed to.

Amendment agreed to.

The Presiding Officer: The next question is, that motion S2M-4255, in the name of Cathy Jamieson, on civil justice, as amended, be agreed to.

Motion, as amended, agreed to.

Resolved,

That the Parliament recognises that an effective and efficient civil justice system is a crucial part of the foundations of a peaceful and prosperous society and welcomes the commitment to undertake a programme of work to modernise civil law and further notes that such a system, whilst being quick, efficient and just, must also be affordable and accessible to the ordinary citizen.

The Presiding Officer: I propose to put a single question on motions S2M-4259, S2M-4260, S2M-4261 and S2M-4262, on membership of committees. The question is, that motions S2M-4259 to S2M-4262, in the name of Margaret Curran, on membership of committees, be agreed to.

Motions agreed to.

That the Parliament agrees that Bruce Crawford be appointed to the European and External Relations Committee.

That the Parliament agrees that Ms Maureen Watt be appointed to replace Bruce Crawford on the Local Government and Transport Committee.

That the Parliament agrees that Euan Robson be appointed to replace Mike Rumbles on the Health Committee.

That the Parliament agrees that Mr Dave Petrie be appointed to the Communities Committee.

The Presiding Officer: The next question is, that motion S2M-4258, in the name of Margaret Curran, on substitution on committees, be agreed to.

Motion agreed to.

That the Parliament agrees that Ms Maureen Watt be appointed to replace Stewart Stevenson as the Scottish National Party substitute on the Subordinate Legislation Committee.

The Presiding Officer: The next question is, that motion S2M-4254, in the name of Margaret Curran, on rule 2.7.2, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

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)
 Butler, Bill (Glasgow Anniesland) (Lab)
 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)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Finnie, Ross (West of Scotland) (LD)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Goldie, Miss Annabel (West of Scotland) (Con)
 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)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Leckie, Carolyn (Central Scotland) (SSP)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 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)
 Martin, Paul (Glasgow Springburn) (Lab)
 Mather, Jim (Highlands and Islands) (SNP)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McFee, Mr Bruce (West of Scotland) (SNP)
 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)
 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)
 Peattie, Cathy (Falkirk East) (Lab)
 Petrie, Mr Dave (Highlands and Islands) (Con)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robison, Shona (Dundee East) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 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)
 Watt, Ms Maureen (North East Scotland) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Fox, Colin (Lothians) (SSP)
 MacDonald, Margo (Lothians) (Ind)
 Martin, Campbell (West of Scotland) (Ind)
 Sheridan, Tommy (Glasgow) (SSP)
 Swinburne, John (Central Scotland) (SSCUP)

ABSTENTIONS

Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)

The Presiding Officer: The result of the division is: For 96, Against 7, Abstentions 1.

Motion agreed to.

That the Parliament agrees under Rule 2.7.2 that the Parliament shall meet in Committee Rooms 2 and 6 of the Parliament at Holyrood as recommended by the Scottish Parliamentary Corporate Body until 12 May 2006.

Emergency and Unscheduled Care (Ayrshire and Arran)

The Deputy Presiding Officer (Murray Tosh):

The final item of business today is a members' business debate on motion S2M-4008, in the name of John Scott, on the future provision of emergency and unscheduled care services in Ayrshire and Arran. The debate will be concluded without any question being put.

Motion debated,

That the Parliament notes the public consultation on the future provision of emergency and unscheduled care in Ayrshire, which closed in December 2005; expresses concern that this consultation only included options to downgrade the existing accident and emergency unit at Ayr Hospital, and expects NHS Ayrshire and Arran to abide by the spirit of the report, *Building a Health Service Fit for the Future*, by Professor David Kerr by listening to the views of both the public and health professionals in Ayrshire and taking full account of these views before reaching a decision on the future of accident and emergency care provision in the county.

17:13

John Scott (Ayr) (Con): I thank members who supported motion S2M-4008, in my name, on the future of emergency and unscheduled care in Ayrshire.

For members who do not live in Ayrshire, I will explain what NHS Ayrshire and Arran proposes to do. On 24 August 2005, the board of NHS Ayrshire and Arran voted by 20 votes to two to consult publicly on two models for the future delivery of accident and emergency services, both of which recommended the closure of the A and E unit at Ayr hospital. At that time, the board chose specifically to exclude from the public consultation a further proposed model, which in essence recommended the maintenance of the status quo of two A and E units—one at Ayr hospital and one at Crosshouse hospital—and the creation of community casualty units at Girvan, Cumnock and Irvine.

The effect of restricting public consultation to just two models was to narrow the choice to a pair of options, both of which were predicated on the closure of Ayr hospital's A and E unit and the centralisation of emergency and unscheduled care at Crosshouse hospital, near Kilmarnock. That was not a reasonable choice to give local people, and the approach was unworthy of being described as a consultation.

Since that decision was taken, 19 public meetings have been held throughout Ayrshire, at which an overwhelming majority of people have spoken in favour of the retention of a full A and E service at Ayr hospital. In addition, as part of the consultation process, some 58,000 local people

signed a petition that calls for the retention of the A and E units at Ayr and Crosshouse hospitals, and an estimated 5,000 people demonstrated on the streets of Ayr on 25 February against the proposal to close their local A and E unit.

Members may wonder why there is such local opposition to the proposal when it had the support of most, although not all, of NHS Ayrshire and Arran's board members, who claim that centralisation of accident and emergency services will lead to

"better, quicker, closer and safer"

provision of emergency care. The simple answer is geography. Journey times by car or ambulance—after an ambulance arrives—from the south of the county can be up to an hour to Ayr hospital. Crosshouse hospital is 18 miles further north, which will add 25 minutes to what is already a long journey. We are all familiar with the concept of the golden hour. Accident and emergency consultants based in Ayr and local ambulance staff maintain that survival of a major accident or emergency is dependent on the time that is taken to reach hospital. Quite simply, the addition of nearly half an hour to the patient journey will cost lives. That is not my view, but that of the consultants, ambulance drivers and paramedics who run the service. I am inclined to take their professional advice on the matter. As one accident and emergency consultant observed during the consultation process, if outcomes are not time dependent, why bother to have a blue-light service at all?

That is the key question in the public's mind. The answer seems obvious: time and distance are critical factors. Therefore, notwithstanding the amended proposals that were tabled at yesterday's board meeting, a credible case has not been made for the closure of Ayr hospital's accident and emergency unit and the centralisation of the service at a single site at Crosshouse. The proposals will not deliver

"better, quicker, closer and safer"

care to the 42,000 people a year who use the service at Ayr.

NHS Ayrshire and Arran carried out the review of emergency and unscheduled care in isolation from the review of elective care in Ayrshire, when the two should have been carried out in tandem. For that reason, the process is further flawed. The board now accepts that point, which was made cogently by Sandra Osborne MP at a public meeting in Girvan on 25 November last year. To consider the matter strategically, if Ayr's accident and emergency unit closes, there will be no unit between Kilmarnock and Dumfries, which will leave many people in south-west Scotland much

further from their nearest accident and emergency service than they are at present.

I am not against changes to the delivery of health care in my area simply for the sake of it or as a knee-jerk reaction to an unpopular proposal. I appreciate the need for change to improve service delivery and I see the logic in centralising some specialist services. However, I do not accept that the same principle should be extended to the provision of accident and emergency services—that should certainly not happen in the case that is under consideration in Ayrshire. That is why I welcome NHS Ayrshire and Arran's decision yesterday to delay deciding on the matter until 4 October. However, I want to know that that is more than simply a six-month stay of execution for Ayr hospital's accident and emergency unit. The delay must herald the start of a review process that takes into consideration the enhanced status quo model that was excluded from the health board's public consultation and which would keep accident and emergency units at both Ayr and Crosshouse. The majority of local people clearly favour that option, which is the one that I have argued for from the outset and which has the support of local front-line health workers and parliamentary colleagues.

It is time for NHS Ayrshire and Arran to think again and to accept that its handling of the exercise has, regrettably, been little short of disastrous. Health board officials have claimed repeatedly that they have taken no decisions on the future of Ayr's accident and emergency unit. Whether or not that is the case could be debated endlessly, but what matters is that local people do not believe it to be true; they believe that the board has already taken a decision, as it consulted only on options that were based on the loss of Ayr's accident and emergency unit. Against that background, it is impossible to see how anyone can have confidence in the process unless the range of models is broadened. Most people in my constituency and thousands more in the rest of Ayrshire believe that NHS Ayrshire and Arran's consultation process was fatally flawed. Notwithstanding the assurances that no decisions have been taken, local residents feel that they are being force fed a predetermined position by the board. It is hard to see how that matches the required standard of genuine public engagement and consultation.

I hope that colleagues will join me in urging NHS Ayrshire and Arran to think again, to use the coming six months genuinely to re-examine all the options and to regain the public's trust, which I am afraid has been all but destroyed in the past nine months.

17:20

Margaret Jamieson (Kilmarnock and Loudoun) (Lab): Once again we have an opportunity to discuss future health provision for the people of Ayrshire and Arran. The motion recognises "Building a Health Service Fit for the Future" by Professor David Kerr, but—there is always a but—only in regard to consultation and the options as they affect the accident and emergency department at Ayr hospital. The motion does not recognise the changing world in which we live and the advances that have been made and continue to be made to deliver safer and more appropriate health care, nor does it recognise that communities that currently do not have casualty services stand to gain from the review of services. It is unfortunate that the motion focuses only on one part of health provision in Ayrshire and Arran and on one particular building. It does nothing other than give fuel to those who continually wave shrouds. It is much better to work in partnership to find a solution than to lead a march.

I thank my colleague Cathy Jamieson, the member for Carrick, Cumnock and Doon Valley, for arranging a meeting recently with Professor Kerr, to give all Ayrshire MSPs the opportunity to discuss with him their concerns about the consultation. That positive and meaningful dialogue is the way in which we can influence Ayrshire and Arran NHS Board, and I believe that we have influenced it. I am delighted that yesterday the board agreed with us that it should embark on a widespread consultation on the future of elective and rehabilitative care and that it agreed to postpone its decision on emergency and unscheduled care until October. It has also accepted the offer from Professor Kerr and the Scottish Health Council to work with it on the consultation. I was one of those who responded to the health board's consultation and I took the opportunity to reiterate my previously stated concern that it was inappropriate to engage in a staged consultation process on the review of one particular part of the service when the full picture was not available to the public of Ayrshire and Arran.

The board now needs to drop its use of jargon—its health service speak—and to engage fully with the people of Ayrshire and Arran in explaining how the changes will serve them better. I urge John Scott to consider how far we have travelled in the delivery of health care in Ayrshire and Arran in the past 25 years. What kind of health service would we have today if we had not taken the decision to close the Victorian buildings of Kilmarnock infirmary and Ayr county hospital and move to buildings that are fit for purpose? Ayrshire and Arran took the bold step all those years ago to centralise maternity services and we are now looking forward to the next phase, when the new

maternity unit opens on the Crosshouse site in August this year. None of those decisions was easy, but the decisions were made in the best interests of the people of Ayrshire and Arran. It is now for us to engage in the wider consultation and to build a better health service, fit for the future, for all of the people of Ayrshire and Arran.

17:24

Mr Adam Ingram (South of Scotland) (SNP): I congratulate John Scott on securing this evening's debate and on his efforts to represent the views of his constituents on this issue. The debate is timeous, given Ayrshire and Arran NHS Board's decision yesterday to pause to consider feedback from consultation on proposed changes to planned and rehabilitative care—a move I welcome; indeed, I advocated it to the board several months ago.

As John Scott indicated, the proposal by Ayrshire and Arran NHS Board to close the specialised accident and emergency unit at Ayr hospital has united the local community in south Ayrshire and the Doon Valley in opposition in a way that, in my experience, is unprecedented.

The health board's consultation process served only to exacerbate the general feeling that the key decisions had already been made and that it did not matter what the public thought. The board acted as if it had been given a green light by its political masters and was determined to push its proposals through regardless of the strength of local opposition—not least of which was the dissident professional opinion among medics and paramedics across Ayrshire. The chairman of the board remarked on more than one occasion that he was not conducting a referendum. That is perhaps just as well for him, because his proposals would have bitten the dust.

I urge the minister, in the light of this experience, to review the guidance on public consultation that is issued to health boards. I am sure that the Scottish Health Council's evaluation will reveal that fundamental flaws in the emergency and unscheduled care consultation in Ayrshire have led to a major loss of confidence in the direction of travel of the national health service in the area.

I turn now to the involvement of Professor David Kerr in the review of Ayrshire and Arran NHS Board's proposals, and to what the motion calls the "spirit" of the Kerr report. We can all broadly agree with the prescription for the reconfiguration of the NHS in Scotland away from a reactive crisis-intervention service and towards a proactive and preventive service that provides continuous care in the community, especially for elderly patients. However, the way in which we get from here to there is fraught with difficulties.

The problem with the mantra "as local as possible, as specialised as necessary" is that it can be interpreted differently according to one's perspective. The public are not daft. They see the creeping centralisation that is associated with increased specialisation in the medical profession, and they see the impact of workforce pressures that have been brought about by the likes of the European working time directive and the new contracts for general practitioners and consultants, hence the public's scepticism about the idea that the desire to meet patient need is driving reform.

The public view accident and emergency units as their safety net in the current system. Unless community services are put in place and can demonstrate their worth, accident and emergency services must be retained. I urge the minister to provide such a guarantee to the people of Ayrshire and Arran and to consider a moratorium on all closures of accident and emergency services until public confidence is restored.

17:28

Ms Rosemary Byrne (South of Scotland) (SSP): I welcome the debate and I thank John Scott for bringing it to Parliament and for the work that he has done in representing the views of his constituents in Ayrshire on the matter. It is impressive that 5,000 people turned out for a demonstration in Ayr and that 50,000 people signed community council petitions opposing the closure. The feeling of the people in Ayrshire and Arran is strong and we should not undervalue it.

I agree that the consultation has been flawed; there were concerns about it from the start. When there is no transparency, people get suspicious. It is unfortunate, but that is what has happened in this case. Ayrshire has many outlying villages and rural areas. Some of the roads are not of the best quality and it will be extremely difficult for people to go from Girvan over to Crosshouse hospital.

Confusion has surrounded the views of some of the people who work in the service, which is interesting. At some of the meetings that I have attended, people from Ayrshire and Arran NHS Board have given assurances that the proposals met with the agreement of everyone in the service who was consulted. However, statements by members of ambulance crews and paramedics who provide the service in Ayrshire show that they do not agree with the bland assurances that the general manager of the Scottish Ambulance Service has given that the extra journey time to Crosshouse will pose no extra risk to patients from South Ayrshire. Along with other health professionals, those staff members made their views clear at a public meeting on the board's proposals.

At one meeting, Sandra Osborne said to Bob Masterton:

"You gave me an assurance that your consultants were not only on board but were driving these proposals. Now I find them saying that people will die and attacking the proposals."

People in Ayrshire and Arran have had to deal with such confusion. When the new accident and emergency unit at Crosshouse was opened just over a year ago, Malcolm Chisholm, who at the time was the Minister for Health and Community Care, was asked whether that represented any threat to accident and emergency services at Ayr hospital. He categorically denied that there was any such threat. He said:

"There are no proposals in place to downgrade A & E services at Ayr Hospital."

What is going on?

Consultant anaesthetist Ian Taylor has stated:

"We're told it's 15 minutes from Ayr to Crosshouse but it's 18 miles and 11 roundabouts ... If there's no hurry to get someone to hospital after a serious accident or illness then why have they given ambulances blue lights?"

The NHS board claims that the proposed closure of Ayr hospital's accident and emergency unit has everything to do with patient care and nothing to do with cutting costs, but I believe that it has more to do with a shortage of consultants and qualified doctors—there are not enough of them to be on the job when they are needed. We should have known about that situation and planned for it a long time ago. The health board knew that new contracts were going to be implemented, so why have such issues not been dealt with? It is appalling that there has been so much confusion.

I am happy that there will be a delay until 4 October and I hope that the minister will take on board the issues that have been raised today.

17:32

Alex Fergusson (Galloway and Upper Nithsdale) (Con): As other members have done, I congratulate my colleague John Scott on securing the debate. As the one member present who does not have a relevant connection to Ayrshire—other than that I used to live there—I am grateful for being allowed to speak.

I commend the motion, but although we are discussing the provision of emergency and unscheduled care in Ayrshire, I do not entirely agree that the only views to which we should listen are those of

"the public and health professionals in Ayrshire".

One could argue that I should have taken that up with my colleague when he lodged his motion. I take issue with that position because the proposal

will affect the western half of my constituency of Galloway and Upper Nithsdale. Many constituents from Wigtownshire are privileged to be able to use the facilities that are provided by Ayrshire and Arran NHS Board, especially those that are available at Ayr hospital.

From my perspective the issue is, as John Scott said, entirely one of geography. From Stranraer and Newton Stewart, it is exactly 50 miles to Ayr. From Stranraer, it is more than 72 miles to Dumfries and Galloway royal infirmary, which represents an almost 50 per cent increase in the length of journey along what is, as members will have heard me say on several occasions, a thoroughly unsatisfactory road. Drummore, which is the most southerly point on the Rhinns of Galloway, is a further 17 miles from Stranraer, so we are talking about an extensive journey of 67 miles to Ayr or 82 miles to Dumfries. If the facility at Ayr was to move to Crosshouse, that would add another 18 miles. With a journey of such a distance, the golden hour would begin to look more like a silver two hours.

Similarly, the Isle of Whithorn at the very south of the Machars is 20 miles from Newton Stewart, which is 50 miles from Ayr. That represents a journey of 70 miles; it is the same distance to Dumfries. If a patient had to get to Crosshouse instead of Ayr, that would add on at least another 25 minutes. A number of my constituents face a big problem and I believe that it will be hugely disadvantageous to them if the proposal is carried through.

I commend Adam Ingram's speech, in which he made some excellent points, one of which concerned interpretation of what the Kerr report means by a community hospital. It seems to me that individual health boards are quite free to choose an interpretation that most benefits them. However, that is an issue for a different debate.

I believe that health service delivery should be maintained as close as possible to the patients who are likely to benefit from it. I am afraid that the board's proposal would do the opposite; services would be centralised yet further, which would be to the considerable disadvantage of some of my constituents. On that basis, I thoroughly commend the motion to the chamber.

17:35

The Deputy Minister for Health and Community Care (Lewis Macdonald): I start by acknowledging the importance that John Scott and other members in the chamber this evening attach to these matters. I assure members that I will feed back to Andy Kerr the views that have been expressed in the debate. As the Minister for Health and Community Care, he will be involved in the

decision-making process, as and when NHS Ayrshire and Arran submits proposals to him for his consideration and approval.

What I will not do this evening is comment in detail on the proposals. I do not want to do that before the Executive has had the opportunity to consider the board's proposals in their final version. The local consultation and decision-making process must take its course before ministers can come to any final view.

Several members have said how important it is that NHS Ayrshire and Arran listens to the views of the public and health professionals before it reaches a decision on the future of accident and emergency provision in Ayrshire. Members have also commented on the decision that the board took at its meeting yesterday not to move to a decision until it has consulted on the future provision of elective care. That appears to be a very sensible decision and I note that has been welcomed on all sides of the chamber this evening. I understand that the board made that decision in response to public comment and to the views that were expressed by the Scottish Health Council. I will return to the matter of the council in a few moments.

The decision also follows the recent visit of Professor David Kerr. I understand that that visit was organised at the invitation of Cathy Jamieson and that it allowed a fairly full discussion in which a number of members who are in the chamber this evening were involved. The board has listened to the views that have arisen from consultation responses and those discussions. I understand that a second phase of consultation will be carried out over the next few months. At the end of that consultation period, the board will consider the responses to both consultation exercises and agree recommendations for the future configuration of health care services. It will then submit its recommendations to Andy Kerr for a final decision.

Some of the comments that have been made in the debate, particularly those directed at ministers, are about how boards consult on proposals and how such proposals are made available to the public for comment. It is absolutely right that boards make transparent the process of reaching decisions on what services can best be delivered locally and on how that will be done.

In developing its proposals for the redesign of services, it is essential that NHS Ayrshire and Arran demonstrates that it is putting patients' interests first. It also has to show that every reasonable effort has been made to explain the impact of service changes on patients and local populations. The board must fully involve patients and the public in the consideration of options for change. That has to be done in a meaningful way.

Given the decision that NHS Ayrshire and Arran took yesterday, I imagine that it has considered carefully the lessons of its earlier engagement and consultation on the proposals and that it will apply them in taking forward the next part of the process. In doing so, the board must define the issues clearly. It must explore and examine all possible options in an open way and on the basis of evidence.

We also take the view that those who were consulted must receive feedback that demonstrates that their views were listened to, understood and acted upon where that can be done in a way that delivers the best practicable outcome. In other words, the board must be able to show that public participation in the redesign of services has been real and meaningful.

The Scottish Health Council was mentioned and I was asked whether the requirements that the Executive places on health boards are sufficient to achieve the level of transparency that I have described.

The Scottish Health Council has the specific task of ensuring that consultation processes are effective and meaningful. It is actively monitoring the process that is going forward in Ayrshire. It has been working with the board to ensure that consultation is meaningful and that the views of patients and the public are listened to and responded to. It will continue to work with the board in discussing the design and roll-out of the next phase of consultation on elective services.

Alex Fergusson: Given that the proposal affects people outwith NHS Ayrshire and Arran's immediate area, will the minister inform me whether it is competent for a health board to consult outwith its area and into another health board's area?

Lewis Macdonald: That is a fair question. The Scottish Health Council will certainly expect NHS Ayrshire and Arran to show that it has considered cross-boundary implications and impacts as part of the process of reaching decisions. I expect that that will be the case, just as it is with NHS Lanarkshire, as patients in Lanarkshire may use hospital facilities that are outwith the area.

John Scott: Adam Ingram made a point about improving guidance to health boards on how to arrive at a decision. As is becoming clear throughout Scotland, it is necessary to resolve the conundrum of what to do when a board puts decisions out to consultation and its recommendations are roundly rejected. Given the emphasis that the Kerr report places on consultation, how do we resolve that conundrum if the consultation comes to a view that is diametrically opposed to the proposals that are on the table?

Lewis Macdonald: The point was also made that the health board has said that the consultation is not a referendum. That is an important and accurate point and the health board is right to take that view. Its duty is to consult and to take into account the views of the public and patients but, as was stressed at the board meeting yesterday, the final decision on what to recommend to ministers lies with members of the board. They must demonstrate that they have taken into account the public's views but, at the end of the day, the decision that they recommend to ministers must be balanced and take into account the best means of delivering services for patients in future. That is their responsibility, and we expect them to do precisely that. They should do it in the context of the national framework of "Delivering for Health" and the Kerr report.

In further answer to John Scott's question, we expect that the proposals that are submitted to ministers will be firmly set in the context of the national framework and demonstrably consistent with what the Kerr report and "Delivering for Health" set out as the proper way to deliver health services in future.

Adam Ingram asked whether there is a contradiction in the Kerr report and whether it is too open to interpretation. The report is clear that change is necessary if we are to deliver the future high-quality health care that is set out in "Delivering for Health". It is also clear that that change must be made through genuine dialogue with communities. When the consultation responses come in, Andy Kerr, as the minister responsible, will consider carefully that evidence as well as the evidence on how best to deliver the health services—including accident and emergency services and elective services—that people are entitled to expect from their NHS.

Mr Ingram: I ask the minister to address the point that I made in my speech about the fact that people in Ayrshire and Arran—and elsewhere in Scotland—regard accident and emergency units as the safety net that will catch them if they have an accident or there is an emergency.

The point has been made that the consultation was poor and that the health board could not convince the population of Ayrshire and Arran that what the board proposed to put in place of that service could serve the same purpose. Until services are delivering on the ground in the community, people will not accept the centralisation of accident and emergency services. Will the minister address that point?

Lewis Macdonald: NHS Ayrshire and Arran, like any health board that proposes to redesign services, must be able to demonstrate that the new services will be put in place in time and that they will deliver the quality of service that people

reasonably expect. Members mentioned the community casualty units and the other provision that is planned as part of the proposals. If the proposals go ahead, ministers will look for a clear indication that the new services will be put in place in good time so that patients have a safety net, as Adam Ingram describes it, and are assured a quality service.

Andy Kerr will consider all the available information, all the representations that have been made and all the points that we discussed this evening. In closing, I assure members that ministers will not endorse any proposal that fails to fit with national policy and guidance or fails to secure a safe, high-quality and sustainable health service for the people of Ayrshire. Equally, we will not pretend that it is possible to develop a health service fit for the future simply by standing still. We must subject the proposals for the redesign of services to the test that I described this evening.

Meeting closed at 17:46.

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