

MEETING OF THE PARLIAMENT

Wednesday 13 September 2006

Session 2

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Scottish Parliament

Wednesday 13 September 2006

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

Time for Reflection

The Presiding Officer (Mr George Reid): Good afternoon. The first item of business is time for reflection, which is led today by David McNeish of Citizens Advice Scotland.

David McNeish (Citizens Advice Scotland): I come in peace.

My granddad, Duncan Stephen, was born in Clydebank to parents who hailed from Peterhead. His best friend at school was a boy named Jamie Duncan. Jamie excelled in the qually and won a place at Clydebank high school, but a few months later he was dead. My granddad recalled, "It is fair to say he died of starvation and that society murdered him." That experience had a profound effect on both his Christian faith and his politics for the rest of his life.

For my part, I will never forget standing as a 12-year-old boy outside Lusaka post office in Zambia, on Nelson Mandela's birthday. We were asked to move on because, as whites, we were suspected of being terrorists. That was racial profiling. As a white Scot, it was the first time that I had experienced being judged solely on the basis of my skin colour, and I did not like it.

I am sure that each one of you could recount such formative experiences—incidents that branded your memory and shaped your future, when passion distilled into determination. Yet, with time, passion can be dimmed by responsibility. Compromise, which is so necessary in politics, can run unfettered by principle. Cynicism and bitterness can begin to encroach on those most precious of commodities—trust and hope. If you will permit a word of advice from a citizens advice bureau worker, it is this: do not lose that passion. Do not let the bruising nature of your responsibilities rob you of that which you set out to contribute.

In an old book of my granddad's, I found a speech given by a fellow Clydesider, Jimmy Reid, when he was installed as rector of the University of Glasgow in 1972. As part of his memorable address, he said:

"A rat race is for rats. We're not rats. We're human beings. Reject the insidious pressures in society that would blunt your critical faculties to all that is happening around you, that would caution silence in the face of injustice lest you jeopardise your chances of self promotion and self advancement. This is how it starts and, before you know

where you are, you're a fully paid up member of the rat pack. The price is too high. It entails the loss of your dignity and human spirit. Or as Christ puts it 'What does it profit a man if he gains the whole world and forfeits his soul?'"

Deputy Scottish Public Services Ombudsmen

The Presiding Officer (Mr George Reid): The next item of business is consideration of motions S2M-4770, S2M-4771 and S2M-4772, in the name of John Scott, on the reappointment of deputy ombudsmen.

14:34

John Scott (Ayr) (Con): I speak to the motions in my name as a member of the Scottish Parliamentary Corporate Body reappointment panel, to invite members to agree to the appointment of Eric Drake, Carolyn Hirst and Lewis Shand Smith for a second term as deputy Scottish public services ombudsmen.

The SPCB has lodged a brief report to assist members in considering the motions. When the Scottish Public Services Ombudsman Act 2002 was passed, the SPCB determined that three part-time deputy ombudsmen should be appointed to assist the ombudsman and that their initial appointment should be for four years. Their initial role was to assist the ombudsman with the merger of the former ombudsmen's offices into a new one-stop shop for handling complaints about public services in Scotland. They were appointed for their knowledge and expertise in particular sectors covered by the ombudsman's office.

As the deputies' role is to assist the ombudsman, in considering the deputies for reappointment we considered it prudent to seek the ombudsman's views on whether having three part-time deputies to support her continued to be appropriate. We accepted the ombudsman's view that, although the existing structure had worked well during the transition to a one-stop shop, having four Crown appointees in a relatively small office appeared to be disproportionate and that a better model would be for the ombudsman to be supported by salaried employees in senior posts, which would provide the necessary flexibility for the office to respond to changing circumstances and demands. We therefore determined that the deputies' reappointment should be for 12 months from 30 September 2006.

The deputies were considered for reappointment by a selection panel made up of SPCB members. The Presiding Officer chaired the panel. The other members were Kenny MacAskill, Duncan McNeil and me. An independent assessor was appointed to oversee the process. I am pleased to say that the assessor, Dr Bernard Kingston, has provided a validation certificate to confirm that the process conformed to good practice and that the deputy ombudsmen are being nominated on merit. On behalf of the SPCB, I thank Dr Bernard Kingston.

He brought a wealth of appointment experience and was of enormous assistance to us in ensuring that we complied with good practice and that the process was both robust and fair.

I believe that the deputy ombudsmen will continue to be committed and effective in their support of the ombudsman in the next 12 months, in what will undoubtedly be a challenging transitional year for the office. I am sure that the Parliament will want to wish them every success in their second term in office.

I move,

That the Parliament nominates Lewis Shand Smith to Her Majesty The Queen for reappointment as Deputy Scottish Public Services Ombudsman from 30 September 2006 until 29 September 2007.

That the Parliament nominates Carolyn Hirst to Her Majesty The Queen for reappointment as Deputy Scottish Public Services Ombudsman from 30 September 2006 until 29 September 2007.

That the Parliament nominates Eric Drake to Her Majesty The Queen for reappointment as Deputy Scottish Public Services Ombudsman from 30 September 2006 until 29 September 2007.

Adoption and Children (Scotland) Bill: Stage 1

The Presiding Officer (Mr George Reid): The next item of business is a debate on motion S2M-4711, in the name of Peter Peacock, on the general principles of the Adoption and Children (Scotland) Bill.

14:38

The Minister for Education and Young People (Peter Peacock): As members will be aware, the Adoption and Children (Scotland) Bill is designed comprehensively to modernise the adoption system for the first time in almost 30 years. It is a very serious piece of legislation.

There have been many changes in the nature of adoption since the Adoption (Scotland) Act 1978, which necessitate new legislation. The bill follows on from an independent review that examined the issues and made key recommendations to the Scottish Executive. The most important changes in the nature of adoption have been in the experiences of children who are seeking adoptive families. Very few healthy babies are now given up for adoption at birth. Instead, children often require to be adopted because their parents are unable or unwilling to care properly for them.

In recent years, the average age of children at adoption has been over four years of age. Such children often have experienced chaotic and disrupted family lives and have a range of complex and demanding needs. In particular, in contrast to the past, adopted children today often have established an emotional bond with their birth parents. That does not make adoption less important, but it can make the road to adoption more complex than it was in the past. It is vital that the children benefit from stable, loving homes with adoptive parents who have the support that is necessary to meet the children's needs.

Unfortunately, the number of adoption applications has fallen from around 1,000 per year 20 years ago to around 400 per year today. Children awaiting adoption often find themselves in what has been described as adoption limbo. They do not know when—or even whether—they will be adopted. Instead, they can find themselves in potentially insecure foster placements. Foster carers' efforts to provide a normal childhood can be hampered by a lack of clear responsibilities and rights. A key part of the bill addresses those shortcomings, which will make foster placements a much stronger place for young people in the future.

The bill will create new court orders called permanence orders, which will allow children who cannot return to their birth parents and who may

be unsuitable for adoption to live in secure and stable environments—usually foster homes. Existing court orders, such as freeing orders and parental responsibilities orders, often fail to meet the needs of children. In particular, it can be difficult for foster carers to obtain the parental responsibilities and rights that they need to care fully for a child on a daily basis. They are sometimes unable to make decisions about a range of issues, for example concerning medical treatment for the child or the child going on holiday.

The new permanence order will rectify that situation and allow foster carers to make day-to-day decisions about the child in their care. Under a permanence order, a child will know that he or she will live in a single placement for the duration of the order. That is important in ensuring that children grow up in loving, nurturing and, above all, stable family environments.

Scott Barrie (Dunfermline West) (Lab): What safeguards will there be to ensure that children who are subject to permanence orders do not end up having a series of failed placements if their first placement breaks down?

Peter Peacock: The central part of what we are doing follows on from the independent review that considered such issues and emphasised the importance of creating permanence and stability in the lives of children. We are still tidying up matters regarding the relationship between the permanence order and issues that the children's hearings system currently deals with. We will deal with such issues at stage 2. I will be happy to speak to Scott Barrie about them in detail.

It will be possible for aspects of parental responsibilities and rights to be shared between a local authority, a foster carer and, where appropriate, birth parents. That will allow birth parents to continue to play a role in their child's life when that is in the child's best interests.

The bill sets out arrangements for support services for people who have been affected by an adoption. Adoption brings many positive effects for children, but it can also be a challenging experience. Adopted children and their adoptive families can need a range of long-term supports to make the adoption fully successful. The bill will ensure that the right support will be available when it is required and for as long as it is required.

Fiona Hyslop (Lothians) (SNP): The minister will be aware that some of us were concerned that the bill as introduced seemed to indicate that there would be support only at the point of adoption. Is he indicating now that he recognises that adoption is a lifetime process and that there should be continuing support?

Peter Peacock: I will deal with that issue in detail in a minute, when I am sure I will answer Fiona Hyslop's question.

The bill will also provide support for members of an adopted child's birth family. Obviously, birth parents will be affected by an adoption, but other relatives, such as siblings and grandparents, can also be affected. Under the bill, they will be able to ask a local authority to assess their need for support. The bill will thus create a comprehensive and long-term support regime for people whose lives have been changed by adoption. I will say more about that in a minute or two.

The bill will adjust the definitions of who is eligible to be considered as potentially suitable to adopt. Unmarried couples will be able to adopt jointly—I stress jointly—for the first time. There will not be a right to adopt—no one has a right to adopt and the bill will give no one that right. Anyone who adopts will still have to meet the stringent assessment criteria that adoption agencies apply in approving prospective adopters. They will then still need to satisfy a court of their suitability and that the best interests of the child will be best served by the adoption. The prime consideration is and always will be what is in the best interests of the child.

Marriage remains the most widely recognised setting in which to bring up children. I would love more married couples to come forward to adopt, and I hope that our measures will have that effect.

Mr Kenneth Macintosh (Eastwood) (Lab): I thank the minister for giving way and for making it clear that he wants to encourage more married couples to adopt.

There is anxiety among faith-based adoption agencies about their role. What are the minister's views on their role in future adoptions? In particular, what are his views regarding potential legislation from the United Kingdom Government's Department of Trade and Industry that might impede the role of faith-based agencies?

Peter Peacock: I made it clear to the Education Committee and I make it clear to the chamber today that I want faith-based adoption agencies to continue with their very valuable work. I also make it clear that our proposals in no way alter the ability of those faith-based agencies to continue that work.

I have written to my ministerial colleagues in Westminster to make it clear that I do not wish any proposals from the DTI to cut across our desire for there to be a continuing and strong role for faith-based adoption agencies in future.

Family arrangements in Scotland are more diverse now than at any other time in modern history. In 2004, 40 per cent of children who were

born were born into households of loving couples who were unmarried but who jointly registered the birth. The most important consideration has to be whether a couple is able to provide a lasting and loving environment in which to raise a particular child.

In all our debates on this bill, we should remember that unmarried individuals and couples can and already do adopt children. That is the case whatever their sexual orientation. One partner can formally adopt a child under legislation dating back to the original Adoption of Children (Scotland) Act 1930—some 76 years ago—then the other partner can apply for a court order for various parental responsibilities and rights. This Executive is not motivated by any moral line, and this Parliament is not being asked to shift any moral line when considering this bill. We believe that the ability to adopt jointly will help to attract more couples than does the more cumbersome route of one partner adopting as a single person.

I referred earlier to all those couples in Scotland who are already in enduring family relationships and have children. By allowing them, for the first time, to consider adoption jointly, we could add significantly to the pool of potential adopters. That alone could provide more stability and better outcomes for many children. However, just as important as widening the pool of potential adopters is the fact that the children concerned will benefit from our proposals. By allowing unmarried couples legally to adopt jointly, the bill will create additional security for children. They will have a full legal relationship with both adults, which will positively affect inheritance rights and give the adopted children clear rights when status as next of kin is important. Children will also benefit emotionally from knowing that both adults in their lives are fully committed to them.

I thank the Education Committee sincerely for its diligent scrutiny of the bill, which is reflected in the committee's stage 1 report, and I welcome its support for the general principles of the bill. The committee examined the bill in great detail and collated a range of drafting points, which will be extremely helpful as we move towards stage 2. The committee handled what can be a difficult and sensitive subject in a mature and sensitive manner. It secured input from organisations and individuals directly affected by adoption. I thank the people and organisations who gave evidence to the committee. Their expertise and knowledge, combined with the views of committee members, are helping to create a bill that will meet the needs of vulnerable children and their families and will stand the test of time.

I will touch on some key points that were raised in the stage 1 report and highlight some of the

main Executive amendments that we intend to lodge at stage 2.

I come first to the points that Fiona Hyslop raised. The Education Committee asked us why, in creating the adoption support system, we distinguished between different phases of the process and created a tripartite support system. Following evidence that it took, the committee suggested that support should be viewed holistically. I agree with that recommendation and I intend to lodge amendments at stage 2 to reflect that. Under the redrafted provision, adoption support will be a single regime. The support that is available to a person will depend not on the particular stage of the adoption process but on the person's particular needs, which will better reflect current good practice.

The Education Committee also asked why we limited the provision of adoption support to three years. That was a reference to the duration of care plans, which will underpin the provision of support to the child concerned and his or her new family. It was never our intention that support would be limited in that way. For clarity, we will redraft the provision in relation to such plans. The provision will be an important feature of the bill and there must be no doubt about it—access to support will not be time limited.

John Swinburne (Central Scotland) (SSCUP): Given what the minister has told us, can I take it that every council in Scotland will supplement the income of grandparents who become kinship carers when social workers give them their grandchildren to care for? Will those carers receive automatic financial support from their local council?

Peter Peacock: John Swinburne raises a point that is slightly different from the one I was making. I was talking about support services for people who are involved in adoption. In some circumstances, grandparents will be able to apply for adoption support services.

In the bill, we seek to take a power to set fostering allowances, which is a separate issue. We will also establish a comprehensive national fostering strategy, part of which will address the matters to which the member alluded. We want to move further in that direction. The Education Committee asked about fostering. Fostering is a vital service, to which the Executive is committed. The bill will confer on the Scottish ministers the power to establish a national scheme for fostering allowances. Foster carers are outstanding people who provide an exceptionally valuable service to the whole of Scotland. We want to ensure that they have the resources that they need to provide for the children in their care.

As I said, in addition to the provisions in the bill I

will bring forward a national fostering strategy, which will address current issues in fostering. On a specific point that the Education Committee raised, I give an assurance that we have carefully considered the full range of fostering policy developments that have been raised. We are confident that under existing statutory powers we will be able to take forward all the advances that we want to make on fostering when the bill's provisions on fostering allowances are in place. The committee was right to consider the implications for fostering. I intend our national fostering strategy to be comprehensive and purposeful.

I have given a brief account of the bill's main features and the key changes that we expect to make at stage 2. We have considered the range of recommendations that the Education Committee made and the points that were raised in evidence, in light of which we will amend the bill in other, more minor, ways. For example, we will make clearer the effects of permanence orders on parental responsibilities and rights. I have written to the committee with more detail of our intentions in that regard.

The bill will make a real and long-term difference to the lives of children who cannot live with their birth parents. There are challenges to do with implementation, and my officials are working hard with local authorities, adoption agencies and others to ensure that we put in place the appropriate regulations, guidance and resources to enable us to meet those challenges.

If the bill is successful, it will widen the pool of prospective adopters and provide much-needed support for people who are affected by adoption. It will provide greater stability for children in long-term care who are not adopted and it will remove the uncertainty and insecurity that can affect such children. Above all, it will provide safe and secure homes for those children.

Our guiding principle, which guides the work of everyone who is involved in administering adoption, is always and only to do what is in the best interests of the child. Too many children sadly are missing out on the stable, loving home environment that many of us take for granted. We have the opportunity to give those children more chances. Few things that we do could be more important.

I move,

That the Parliament agrees to the general principles of the Adoption and Children (Scotland) Bill.

14:53

Mr Adam Ingram (South of Scotland) (SNP): I apologise to members and to the minister for missing the early part of the minister's speech.

The Scottish National Party acknowledges the need for the bill and welcomes the broad thrust of its provisions. In particular, we welcome the extension of the duties on local authorities to provide support services to people who are affected by adoption.

Gone are the days when the typical adoption was triggered by a young, unmarried mother giving up her baby for adoption. The lifelong pain and heartache that the individuals concerned suffered was pitiable and we can be thankful that the rigid social norms that led to some 2,500 adoption applications in 1949 are well behind us.

However, in the here and now we are afflicted by social fragmentation as never before. Every year in Scotland, more than 50,000 children of all ages—the number is rising—are referred to the children's hearings system, mostly as a consequence of neglect or abuse in their home environment. Many of those children are taken into care to be looked after by local authorities and it is those children who are the most likely to be subject to the adoption process.

It is worth emphasising that the route into a caring family environment that we are discussing is limited to just a few hundred of the several thousand children who are looked after at any one time. The bill is a fairly small part of the bigger policy framework that must be put in place to address the overwhelming disadvantages that looked-after children face. It is disappointing, especially given the length of the summer recess, that ministers have been unable to publish the report of the review of educational outcomes for looked-after children or the proposed national fostering strategy prior to today's debate, as the Education Committee urged.

As the Barnardo's Scotland briefing for today's debate points out, because the bill makes so little reference to fostering, fostering may be in danger of becoming the poor relation, despite the fact that many more children are supported through fostering and despite the fact that it costs much more than adoption.

Peter Peacock: I acknowledge Adam Ingram's constructive tone. I want to make it clear that the reason why we have not yet published the strategy on fostering is that we want to make it comprehensive. Many difficult issues arise that we want to address properly. Please take my reassurance—I hope that Barnardo's and other organisations that have commented on the issue in the past few days will do so, too—that we do not see the bill as a vehicle for doing more on fostering, other than to get the powers that we need, and that we have many other powers at our disposal through various acts of Parliament. We want to put the strategy in place, because we are absolutely committed to fostering. I have met

foster parents and I believe that they do outstanding work on our behalf. They need better support and we are absolutely committed to giving that support.

Mr Ingram: I thank the minister for his intervention. He will be aware that concerns have been raised about the approach of dealing with fostering in regulations rather than in primary legislation. Perhaps we can engage in a debate on that a little later. My colleague Maureen Watt will cover the fostering concerns, so the minister may want to respond to her comments.

I welcome the Executive's response to the recommendations in the Education Committee's stage 1 report, despite the fact that it appeared just in time—a new concept. Lest I appear too churlish, I congratulate ministers on taking on board most of the committee's recommendations for amendments. Our concerns about resources for adoption support services appear to have been addressed positively, though we await with interest the outcome of the further consultations that the Executive will undertake on the demand for and costs of enhanced support services. The Finance Committee was rightly sceptical of the financial memorandum's claim that the bill will be cost neutral. That committee also highlighted the current underfunding of such services.

Adoption UK in Scotland, which has experience of supporting adoptive families, points out that adoption support services come at a heavy price, but that, without them, the cost to children in the care system, to the adoptive families who parent them and to society is far greater. Funds must be available for families who parent children who have been traumatised by abuse and neglect—that should be a routine part of adopting today. It is a sad fact that one in five adoptive placements breaks down. Providing resources for early intervention such as adoptive parenting training, therapeutic services and financial support can contribute significantly to reducing that figure.

I turn to the important issue of human rights for parents, families and children. We welcome the bill's compliance with the European convention on human rights, particularly with regard to dispensing with parental consent to adoption orders. We also welcome the introduction of permanence orders, which will help with the early resolution of contact issues. The orders will provide greater certainty, security and stability for children by being more flexible and capable of being tailored to individuals' needs than the current court orders are.

I am sure that the committee will return to the need for the wider family to be involved in arriving at the best care options, an issue to which John Swinburne alluded in his intervention. Placing children with strangers must always be the last

resort. Children 1st pointed to the use of family group conferencing as an effective, tried and tested model that often results in kinship care solutions, which minimise the trauma that children experience. Children in Scotland emphasised that unmarried or non-resident fathers should be considered as potential solutions much more than they currently are. Those issues are very relevant to the wider debate on looked-after children, and we shall return to them.

The biggest sin of omission in the bill, however, is the failure to give a voice to the children who are involved in the adoption process. An impressive array of children's agencies, led by Children in Scotland, has called for the child's right to be heard, as articulated in article 12 of the United Nations Convention on the Rights of the Child, to be stated on the face of the bill. As the bill stands, only children aged 12 and over will have the right to express their views and be asked for consent to any proposed adoption. Clearly, access to independent advocacy would be the appropriate mechanism to address that deficiency in the bill. I ask the minister to respond to those calls in his summing up.

So far I have concentrated on what I consider to be the most important issues arising from the committee's stage 1 consideration of the bill, but it would be remiss of me not to comment on an issue that, while less significant, has filled more column inches in our newspapers than any other. I refer to the proposed extension of the pool of adopters to include unmarried couples, including same-sex partners who are living together in an enduring family relationship. I do not agree with people who claim that there is a great point of principle at stake, that the teachings of the Christian or other faiths will be undermined, or that faith-based adoption agencies would not be able to operate as they have done until now. All that is nonsense, as anyone who has taken the trouble to read the committee's report, rather than the newspaper cuttings, will know. However, there are two principles at stake, the first of which is that the Parliament has a duty to legislate for the world as it is, rather than for how one perspective thinks it should be, no matter how influential that perspective might be.

Phil Gallie (South of Scotland) (Con): I do not know where Adam Ingram stands on the theological situation, but I have a letter here from Bishop Devine of Motherwell that seems to contradict everything that Mr Ingram has said about the faith attitude towards same-sex adoption. Is the bishop totally wrong and is Adam Ingram wiser than he?

Mr Ingram: I refer Phil Gallie to a press release from the Catholic parliamentary officer, John Deighan, which welcomes the bill. There may be

areas in which we disagree—we shall return to that at stage 2 and stage 3.

The second, and most important, principle that I wanted to emphasise was that articulated by Kathleen Marshall, the children's commissioner, when she pointed out that the UN Convention on the Rights of the Child insists that the child's interests are paramount in adoption. That argues against any restriction on the kind of people who can adopt. If people have been rigorously assessed and found to be suitable to be adoptive parents, that is the only test that should be applied and should matter. End of story.

The Scottish National Party supports the general principles of the Adoption and Children (Scotland) Bill.

15:03

Lord James Douglas-Hamilton (Lothians) (Con): I start by mentioning an interest in the charity Hope and Homes for Children—I am a chairman of the Edinburgh support group—but since the charity's work is overseas it is unlikely to be affected by this important bill.

I welcome the aims of the Adoption and Children (Scotland) Bill. As society changes, so our legislation governing adoption should be amended. The number of adoptions in Scotland has been falling since 1945. Since the mid-1990s, that fall is mostly attributed to a decrease in step-parent adoptions. As the minister has commented, the other change affecting adoptions is that many of those who are adopted today are not babies and have often lived in local authority care or experienced parental drug or alcohol misuse. Those factors are further challenges for prospective adopters.

The Education Committee has asserted that, at all times, the child's welfare must be paramount. That has been my conviction for many years, not least during the passage of the Children (Scotland) Act 1995, which I had the privilege to take through the House of Commons and on which the bill builds. At its best, adoption provides a safe and stable environment for children who cannot be brought up by their birth parents, and we all owe a debt of gratitude to those who take the selfless decision to adopt.

One of the possibly contentious aspects of the bill is the proposal to extend adoption eligibility to unmarried couples, including same-sex couples. Many people hold personal convictions on that and, therefore, the Conservative group intends to have a free vote. Religious organisations and adoption agencies, as well as gay groups, provided admirably measured and useful evidence to the committee. The Roman Catholic adoption organisations have clearly done an extremely

good job and I understand that, although they would not wish to be engaged in gay adoptions if the bill is passed—as is extremely likely—they will not impede its application when it is enacted. Therefore, it is extremely important that the minister confirms to them and to Muslim and Jewish organisations that have comparable reservations that they will not be compelled to be involved in gay adoptions and will not need a legislative opt-out.

Peter Peacock: I thank Lord James Douglas-Hamilton for his constructive comments hitherto. I make it clear that, as I said to Ken Macintosh, nothing in our proposals would in any way alter the way in which the faith-based adoption agencies operate.

Lord James Douglas-Hamilton: I am grateful to the minister for his reassurance that legislative opt-out provisions are not necessary in the bill.

Phil Gallie: Will Lord James Douglas-Hamilton give way?

Lord James Douglas-Hamilton: No. Phil Gallie can raise the point with the minister if he feels that further clarification is needed, but I think that the minister has made a clear statement.

There is no doubt that the institution of marriage has served our country well and should be preserved and supported. Moreover, I would support Executive efforts to examine ways of increasing adoption by married couples by tackling prejudice on the grounds of age, race or religion. Stable and enduring family relationships are a suitable environment for children. They have traditionally taken the form of marriage between a man and a woman and relatively little research is readily available on gay adoptions.

At present, adoption applications are assessed on a stringent, case-by-case basis. The minister mentioned the importance of safe and secure homes, which I whole-heartedly endorse. As it is, about a third of all applications are turned down under those stringent procedures, but it may well be that same-sex couples can provide the required stable and supportive environment, so there should be no legal bar to their eligibility for consideration.

Fiona Hyslop: One way in which we can improve the uptake of adoption, particularly by married couples, is through adoption leave. It is essential that, in employment terms, adopting a child should be considered similar to a pregnancy and that employers should provide support. That is one way of removing barriers.

Lord James Douglas-Hamilton: Fiona Hyslop makes a slightly different point from the one that I am making, but we will consider it in depth in

committee and I am grateful to her for highlighting the matter at this stage.

I remind members that the words on the mace, which are there to guide our actions, are justice, integrity, wisdom and compassion. I submit that wisdom and compassion will assist us in our consideration of the bill, as wisdom implies understanding and non-discrimination, while compassion implies tolerance. If I had to give an example of a situation in which it might be especially appropriate for a gay couple to be eligible for consideration to adopt, I would mention the case of a child whose parents had been killed in a car crash. The child's devoted uncle and his male partner might be the best people to adopt, and it would be wrong to let a legal bar prohibit that. Blanket discrimination against all gay people is not in keeping with the spirit of the 21st century.

A second issue of concern to the Education Committee has been to assess whether the Executive's review of the national fostering strategy dovetails with the new provisions for adoption. We recommended the introduction of a fairer system of fostering allowances, with a national minimum to reflect the true cost of raising a child. I support that recommendation, as does the British Association for Adoption and Fostering Scotland. I was glad to learn from the minister that his response on the subject is likely to be positive.

Another promising conclusion that emerged from the Education Committee's evidence was the need to develop kinship care, which John Swinburne mentioned. The need to do that was advocated by Children 1st, which said that family group conferencing should be used as a means of exploring whether the extended family could provide support for the child. I support that and believe that it warrants further consideration. I hope that the minister will be able to clarify whether he will consider lodging an amendment to the bill to specify that adoption agencies must demonstrate that they have considered whether the extended family can provide appropriate care for a child.

We must ensure that the bill balances the interests of children, adoptive parents and birth families. However, once more, the overriding consideration must be the best interests of the child. The bill provides a great opportunity to update existing legislation and modernise the system for adoption and fostering. It makes certain that children who find themselves in this challenging situation are safeguarded. For that reason, I support the bill, in principle, at stage 1.

15:11

Euan Robson (Roxburgh and Berwickshire) (LD): I am pleased that the bill has reached its stage 1 debate. I lived with it for more than two

years after the Scottish Parliament opened, when I was in the Scottish Executive Education Department, and I consider it to be one of the more important pieces of legislation that we will deal with in this Parliament.

I would like to express my appreciation of the work of the adoption policy review group and particularly its two chairs, Graham Cox and Penny Simpson. I was able to express that thanks at a British Association for Adoption and Fostering Scotland conference in Dundee in June 2005, but I also want to put it on the parliamentary record. The group's report was a detailed, thorough and well-researched document that contained—I think—about 107 recommendations, of which I believe that all, bar three or four, have been encompassed in the bill.

I would like to record the full support of my party for the bill.

Adoption is a complex process. As Peter Peacock said, that process has needed to be updated for some time. That is reflected in the fact that we have 30 sections devoted to adoption in chapter 2 of the bill. I do not wish to go into the fine detail. Instead, I will focus on three specific areas.

First, adoption should occur only when it is in the best interests of the child. Further, whatever action is taken during the adoption process or later should be governed by that overriding principle. Of course, that is the culture of the Scottish courts and I do not foresee that changing. To my mind, that is the clear intention of sections 9 and 10, although it is not explicitly stated in those sections. Accordingly, it might be wise to incorporate the phrase “in the best interests of the child” in those sections. Perhaps ministers could consider that in due course.

Key to the review group's recommendations was the permanence order, which was mentioned earlier. The permanence order would give a child a sense of belonging to a family. It is an important concept. Crucially, it points to the role of the adults who care for the child in the development of that sense of belonging and the importance of those adults being able to make everyday decisions, such as granting permission for sleepovers, holidays and medical treatments, just as parents in other families do.

The permanence order will provide long-term legal stability for children who cannot live with their birth families and for whom adoption is not the best option. It will provide the courts with the required flexibility to take into account the different needs of individual children. Parental responsibilities and rights can be allocated or shared by the local authority, birth parents and carer in the most appropriate way to meet the

needs of the child. For example, some children will have formed strong bonds with family members and will want to have continued contact with them or with other carers. The permanence order will cater for that situation and will allow contact arrangements to meet the needs of each individual child.

The permanence order will meet the needs both of children who will remain in foster care and of those who await adoption. It will address the shortcomings of the existing legal options. Supervision requirements need to be reviewed frequently, with potentially unsettling effects on the child. That is an important consideration because we do not want that to happen. Supervision requirements do not give responsibilities and rights to carers. Similarly, parental responsibility orders give rights and responsibilities to local authorities but not to substitute families. Freeing orders can only leave children in what I describe as adoption limbo, with only a local authority having rights and responsibilities for them.

The permanence order will provide clarity and security for children and their carers as well as providing flexibility to recognise the interests of birth parents and other relatives, provided that—again, this is important—they are in the best interests of the child.

I turn to the question of unmarried couples. I see nothing in the bill that, to my mind, undermines the institution of marriage. Currently, an unmarried couple can be assessed together under the rigorous process, but only one partner can then apply to adopt the child. The other partner probably has to apply for a residence order. In that way, under current provisions, unmarried couples can, to all intents and purposes, just about adopt a child together. That includes, of course, same-sex couples. Indeed, a number have done so; I refer to the T, Petitioner judgment in that context. However, the fact that couples cannot legally adopt a child jointly might prevent a number of children from obtaining the best outcome in their lives.

Changing the law to allow unmarried couples to adopt as a couple will therefore not be a radical legal change, nor a significant change to current practice. However, it could have an important impact on the life chances of a young person for whom adoption is in their best interests. How can we say that we would accept a state of affairs that is in anything other than a child's best interests? There are overwhelming reasons for the proposals.

The Minister for Education and Young People's remarks on fostering are important. I welcome his commitment to the national fostering strategy. Fostering can never be a poor relation in looking after our children. As the minister said, many

powers are currently available to ministers with regard to fostering. Hence, a specific bill on fostering simply for the sake of legislation would be, to my mind, unwise.

We must support adoption services and foster carers in practical ways and a move towards national allowances would be welcome. For me, all that we are doing is encompassed in the following thought. What would I want for my child if I was not available and nor was my wife? I would want the best possible provision. The bill will help to provide that and therefore I have no hesitation in commending it to Parliament.

15:19

Iain Smith (North East Fife) (LD): I welcome the opportunity to speak in this debate on behalf of the Education Committee. I start by thanking the many people and organisations that gave the committee written or oral evidence. That evidence, as ever, was crucial in highlighting the key issues in the bill. Our report, to which I am pleased to say the Executive has responded positively, refers to those issues.

I particularly thank the adopted children, adoptive parents and birth parents who took part in our three focus groups and discussed their experiences of the adoption process. All members of the committee found that to be extremely valuable. I commend that approach to other committees when they consider evidence sessions for bills.

I want also to thank my fellow committee members for their dedicated and professional approach to the stage 1 inquiry, our adviser Professor Kenneth Norrie and the clerking team.

As members have already said, the Adoption and Children (Scotland) Bill seeks to modernise adoption law in Scotland. The law is now nearly 30 years old, and the bill deals with a different pattern of adoption than the Adoption (Scotland) Act 1978 dealt with. Adoption today is rarely about finding adoptive parents for newly born children who have, for whatever reason, been given up for adoption by the mother. It is now about providing an appropriate and caring family environment for some of the most vulnerable children in our society—children for whom it is no longer in the best interests of their safety or welfare that they remain with their natural parents, and for whom adoption is an important route to improving their life chances. They are children who may face multiple difficulties and for whom continued support will be required throughout their childhood and, in many cases, their adulthood.

The Education Committee recognised that although adoption law must balance the interests of birth parents, prospective adoptive parents and the children, the overriding consideration must

always be the best interests of the child.

I will return later to specific issues that were considered by the committee, but I want briefly to examine other issues that are covered in the bill.

As Euan Robson eloquently outlined, the bill will introduce permanence orders, which will replace freeing orders and parental responsibilities orders. Permanence orders have been generally welcomed. They will provide a more flexible and tailored approach to the needs and circumstances of the child while, as the name suggests, providing permanence in the day-to-day lives of children and their carers. Although permanence orders may form part of the adoption process, they can be used in other circumstances, including long-term fostering and kinship care situations.

The committee received evidence of concern, however, about the interaction between permanence orders, which will be awarded by the courts, and the children's hearings system. There were also concerns that the grounds for making a permanence order are not sufficiently clear. I welcome the Executive's commitment to introduce at stage 2 amendments that will address those issues.

The other major issue in the bill relates to fostering. A number of witnesses were concerned that the bill deals only with fostering allowances, rather than with a wider reform of fostering legislation. However, the committee was advised by the minister that the underlying primary legislation on fostering remains robust and that the recommendations from the adoption policy review group will be addressed through regulations and guidance.

I welcome the assurance that the fostering regulations will be amended in line with the changes to adoption law and in line with other issues that were identified by witnesses, such as whether restrictions on the number of children who are placed with one family could also be dealt with by regulations if the review of national fostering strategy establishes that that is desirable. The proposed level of the national fostering allowance remains the big unanswered question for many foster parents, so I would welcome an indication from the minister about when he expects to be able to make announcements on the allowance and the timescale for the fostering review.

Returning to adoption, I note that the committee identified a number of concerns, all of which were predicated on the interests of the child being paramount. I welcome the positive response of ministers to the committee's recommendations, and I welcome, too, the Executive's commitment to lodge stage 2 amendments on issues such as the grounds for dispensing with parental consent and the provision of adoption support and post-adoption services.

The committee's report mentioned the rights of birth parents to information on the adopted child. For clarification, the committee was clear that the adopted person should control the decision on whether information should be provided. The only exception would be that a birth parent who so requested could be informed in the event of the death of their child.

The committee also accepted that there is no need for any new legislative provision for step-parents. However, we would welcome greater recognition of the contribution that can be made by various forms of kinship care.

Last, but by no means least, I turn to the issue of same-sex partners. The committee recognised that it would be an important and controversial issue, but we also wanted to ensure that it did not dominate our deliberations. I hope that it will also not dominate today's debate—indeed, it has not so far.

Phil Gallie: Will the minister give way?

Iain Smith: I would love to be a minister, but I am happy to give way.

Phil Gallie: I thank the committee convener for giving way. Earlier, the minister responded to my colleague Lord James Douglas-Hamilton's reference to the pressures on faith groups that provide adoption services. I accept the minister's intention, but I query whether it could be seen to contravene the European convention on human rights and human rights legislation. Did the committee examine that point?

Iain Smith: The committee considered carefully the issues that relate to adoption agencies that are attached to a faith. We are sure that nothing in the bill will require such agencies to provide adoption services to people whom they feel are inappropriate. However, the committee felt that those agencies should be required to refer such people to an appropriate agency. I do not think that an ECHR issue will arise, provided that the people concerned are referred appropriately.

The committee raised the issue of adoption by same-sex partners with everyone who gave oral evidence and with every agency or group, apart from the faith-based groups, that supported the bill's provisions. It is important to stress that the bill will not create a right to adopt for anyone—gay, straight, married, unmarried or single—and that homosexuals are not currently barred from adopting. However, the bill will remove the present bar on joint adoption by civil partners or by couples who are not married or civil partners but who live together in an enduring family relationship.

Nothing in the current law bars one member of a couple from adopting and raising a child in a family

environment with his or her partner of whatever sex. The change in the law will merely allow that arrangement to be recognised and will allow the other partner to have the same rights over, and responsibilities for, the adopted child. The decision on whether to place a child for adoption in such a home will be based on the same criterion as in any other adoption placement, which is whether to do so is in the child's best interests. The bill reflects the reality of the society in which we live, which is made up of many differing family units.

Speaking personally—I apologise to committee members if they disagree with what I am about to say—I abhor the tone and contents of the letter that the Bishop of Motherwell sent to members. Other Christian churches support the proposals in the bill. In its written evidence, the Church of Scotland said that it

"would, on balance, support the proposals to allow unmarried or unregistered couples (of different sexes or of the same sex) to adopt jointly."

The Scottish Episcopal Church said:

"'Family' no longer means just the traditional nuclear family and the fact that both the Adoption Bill and the new Family Law Bill recognise this is welcomed. The well being of the child is put first in both instances rather than the traditional values of society which have tended to pass judgement on a child who comes from a less conventional family set up the Committee supports the security provided by the Bill to those children ... living in same sex families".

Does the Bishop of Motherwell think that those churches are in conflict with Christian morals and values? The bishop implores MSPs to

"Choose to be the children's champion, protecting their interests and defending their rights."

I will do that by supporting the bill. To paraphrase the bishop, children must never be disadvantaged or deprived of a more wholesome home life in order to promote the interests of the Catholic Church.

The Deputy Presiding Officer (Murray Tosh): We move to the open debate. If we stick to six minutes each, there should be time for everyone.

15:27

Dr Elaine Murray (Dumfries) (Lab): The media have tended to describe the bill as controversial, but it has been widely welcomed by organisations that represent children's interests, although I know that such organisations will propose to us several amendments for stage 2, which we will consider carefully.

I will quote some of those organisations. Children 1st said:

"Many of the Bill's provisions will help to increase stability of placement which is so desperately needed by Scotland's most vulnerable children and young people",

and Children in Scotland

"welcomes this Bill as a positive and well thought out approach to modernising the adoption system in Scotland."

Barbara Hudson, who is the Scottish director of the British Association for Adoption and Fostering, believes that

"This bill is hugely important and has the potential to ensure that many more children can live more stable lives ... Permanence Orders will make it easier for long-term plans to be made for children"

and

"foster carers can share some of the responsibility for day to day decisions".

Even the Bishops Conference of Scotland said in its written evidence:

"We are encouraged that"

the bill

"contains many positive proposals which will make a positive impact on the lives of the children who are unfortunately unable to remain with their natural family."

In the conclusion at paragraph 113 of its stage 1 report, the Education Committee

"welcomes the introduction of the Bill as an important contribution to providing greater stability and security for children and recommends that the Parliament approves the general principles".

Members of all parties that are represented on the Education Committee unanimously supported that conclusion. That concurrence of views has been reflected in the debate.

I was disappointed and saddened by the letter that I received from Bishop Joseph Devine, the Bishop of Motherwell, not least because it seemed to be overtly party political. He mentioned just two parties—those in the Executive—and did not recognise the cross-party support in the committee for the bill. In his defence, perhaps he had not read the committee's stage 1 report, which all committee members unanimously agreed.

As other members have said, the bishop's letter is factually incorrect in that homosexual and unmarried people have been able, as individuals, to adopt since the 1930s, whether or not they were involved in a relationship.

If two people are adopting, their partnership will, to a certain extent, be part of the assessment of the sort of home that they can offer the child. In some ways, that could be seen as increasing protection for the child by ensuring that he or she will go to people who are in a stable relationship and not to a single person who might change their partner every few months.

Professor Kathleen Marshall, Scotland's commissioner for children and young people, believes that the provisions in section 31 of the bill

will help to clarify the existing situation because both partners will obtain legal status as adoptive parents, and she believes that the child will benefit from the greater stability that that will bring.

Unfortunately, the Bishop of Motherwell has presented the bill as giving in to "gay demands" and as being driven by political correctness. As others have said, no one has the right to adopt. Time and again during stage 1, witnesses and committee members stressed that the absolute priority in any arrangements for a child who cannot live with his or her own parents must be that child's best interests. If people want to see that in writing, it is in paragraph 6 of the committee's report.

How different was the tone of that letter from that of the submission from John Deighan of the Catholic Parliamentary Office, who looks forward to the bill

"making a positive impact on adoption services in Scotland and bringing benefit to children in the adoption system."

He did, of course, point out that there might be issues of conscience for some MSPs—we all appreciate that some of our colleagues will have those issues.

How different was the tone of the Bishop of Motherwell's letter to the tone of the evidence that was given by the faith-based adoption agencies, St Margaret's Children and Family Care Society, and the St Andrew's Children's Society, whose evidence I and others found to be measured and compelling. None of us wants legislation to force faith-based organisations to act against their beliefs. I and others have sought and received reassurances—the minister has reassured Parliament again—that the bill will not do that. Again, if people want to see that in writing, it is in paragraph 54 of our report.

Strangely enough, Bishop Devine also wanted a referendum on the bill. I am not quite sure why he wanted a referendum on this particular piece of legislation; we did not have a referendum on the legislation for the ban on smoking in public places, on section 2A, or on antisocial behaviour. Why should we have a referendum on this bill? Our procedures have checks and balances—the Executive holds consultations and we take evidence from witnesses. If I were the bishop, I would not particularly want to go down the referendum route because there could be a call for a referendum on whether local authorities should fund denominational schools. I am afraid that such a referendum might not come up with the results that he would want.

The bill is about improving the stability and life chances of children and young people who might be very vulnerable. Their interests must always

take precedence over ideology, whether religious or political.

Finally, I am pleased with the Executive's reassurances that it is seriously considering kinship care. I will cite a typical example of a kinship care issue. I was approached by a constituent who is in her late 50s. She brought up four children of her own but, sadly, one of her daughters has a serious heroin addiction, which has resulted in her having her three-year-old grandchild to look after. Undoubtedly there are financial pressures on such people. A recent article said that it is estimated that it costs £100,000 to bring up each child to the age of 18; that is before they start at university, when it gets considerably more expensive, as I know. There is no way that someone who is approaching their retirement, having brought up three or four children already, is going to be able to find that sort of finance on their own when they are looking forward to their retirement. We need some way of supporting the people who have taken the responsibility of looking after their grandchildren. I look forward to a positive recommendation on that from the Executive as part of its fostering strategy.

15:34

Roseanna Cunningham (Perth) (SNP): There is much in the bill to recommend it; this afternoon we have heard many comments that reinforce that. No one can object to improving adoption and fostering services in Scotland.

It is clear that much of the bill has widespread support. Some agencies obviously do not think that it goes far enough. I was particularly drawn to the Children 1st briefing, which makes a plea for far greater involvement of the wider and extended family before decisions on adoption are made. I also note that Children 1st wants amendments to be made to the bill to ensure that a child's views are taken into account no matter what his or her age is. Both those points are very sensible.

The Deputy Minister for Education and Young People (Robert Brown): On that point, which has been raised before, I draw Roseanna Cunningham's attention to section 9(4)(a), which states:

"The court or adoption agency must, so far as is practicable, have regard in particular to—

(a) the child's ascertainable wishes and feelings regarding the decision (taking account of the child's age and maturity)".

I accept that there might be arguments over the precise phraseology, but does the member accept that the bill—like much other legislation on this issue—provides a fairly strong direction in respect of the child's views?

Roseanna Cunningham: I accept that, but I will come on to other aspects of section 9 later.

The Children 1st briefing gives some very considered views on the bill, and analogous proposals are presented by the Scottish Independent Advocacy Alliance, which suggests a mechanism whereby the various views of children and others could be heard, including in the proceedings that directly affect them. Perhaps some of those issues will be taken on board at stage 2. The suggested changes are important and helpful and would make the bill better, so I hope that the minister will give them careful consideration.

Notwithstanding the good that is in the bill, I am afraid that I will not support it this evening. I hate to break the cosy consensus, but my reason for refusing to support the bill is the deep unease that I feel at the provisions in section 31. We cannot wish those concerns away. Those of us who, like me, know families in which adoption has taken place will know how incredibly positive the experience is and how life affirming it can be. However, it is not without its difficulties. Even in situations in which children have been placed for adoption, decisions can be reversed and people can end up in protracted legal proceedings—I have seen both those things happen—and upset and stress can be experienced. Parenting is no easy feat. I have signally avoided its difficulties, but I am in awe of those who take on the responsibility. In my view, parenting is so important that it seems inconceivable that we would introduce yet another potential difficulty into the adoption mix by extending the provision to gay couples. I know that that is not a politically correct argument to make.

Margaret Smith (Edinburgh West) (LD): I speak as a parent of five children. As such, I totally agree that parenting is very difficult. I also speak as the only openly gay parent in Parliament. Other members have already pointed out that the legal right already exists. All that the bill will do is extend that right to couples. Having brought up children on my own and as part of a couple, I must say that it is easier to bring them up as part of a couple, irrespective of the gender of one's partner. To bring up a child on one's own is much harder. If a child is brought up by an unmarried same-sex couple or unmarried heterosexual couple, there will be more stability for the child because it is being brought up by a couple.

Roseanna Cunningham: That will always be a matter of judgment. I am sure that Margaret Smith will accept that hers is a very different scenario, in that the children involved are her own children rather than children who have been adopted into the family.

I know that it is not politically correct—I was trying to make that point—but I cannot see how, to be frank, overturning tens of thousands of years of nature's design will move us forward in society. I am curious as to the committee's findings at paragraph 48, which states:

"The Committee notes the very small volume of research that has been conducted in this area and the absence of any objective evidence that indicates that there should be a bar on eligibility to adopt."

It is interesting that a very small amount of research has been conducted. In this chamber, I have argued frequently in favour of the precautionary principle—many times and in many different debates—so I am somewhat surprised that the precautionary principle is not held equally to apply in this case if it is felt that there is such an absence of evidence.

Iain Smith: Will the member take an intervention?

Roseanna Cunningham: No, I must press on. I have taken two interventions so far. I will see how far I can get.

People will argue that the interests of the child must be paramount—certainly, they must be. I see no reason for loading on to children—many of whom will be far too young to express a preference one way or another—yet another issue to deal with on top of that with which they are already struggling, which is the loss of their natural parents or, in the case of some children who are placed for adoption nowadays, the singularly difficult backgrounds from which they have come.

The issue might be seen to be of more importance to some groups in society than to others, but I note the provisions of section 9(4)(b) on consideration of the child's religious persuasion, racial origin and cultural and linguistic background. I ask the minister to confirm that those considerations will apply even to children who are in state care. Will such children also be able to say, "No, I don't want that for me. That is not the kind of life that I want to live"? Will agencies truly be mindful of the section when decisions about adopting are made, or will diversity be used as a smokescreen for riding roughshod over the deeply held views of many people?

I note that the committee is confident that the faith-based adoption agencies, of which there are two in Scotland, will not be forced to provide services to couples who might otherwise be eligible under the legislation. That has been reiterated today and remarks on that were welcome. I also welcome the minister's comments on the future of any DTI plans. However, I wish that the minister would not set his face against a *prima facie* opt-out. I am not sure why he has

done that, especially in the current climate, in which the provision of reassurance in the bill might have been considered to be needed. As I have just asked, can people who have faith backgrounds be reassured that their beliefs and values will be reflected in the choices that are made for their children, in the sad event of their being orphaned, even if those choices are being made by people other than faith-based societies?

It was with no small degree of apprehension that I decided to speak up today. Of late, a tendency has developed to mock and decry those who stray from the mainstream of political correctness. I voted for the repeal of section 28 and had no problem with civil partnerships, but I have a problem with the bill. Although I am worried about having spoken up today, I have done so sure in the knowledge that I represent the views of the vast majority of people in Scotland on this issue. Someone must represent their views in Parliament, if the Executive will not. I urge any member who has the slightest doubt about the impact of this aspect of the legislation to follow their conscience and to refuse to vote for the bill.

15:41

Patrick Harvie (Glasgow) (Green): Very shortly after I was elected to Parliament, I was given some advice by a well-meaning journalist—there are some out there. He advised me not to get too busy on issues around sexuality and sexual minorities. On civil partnership, he told me, "Don't touch it with a bargepole. People will just think of you as 'the gay one'." I understand why he said that, but I genuinely do not believe that if a black or other minority ethnic MSP had been elected he or she would have been advised, "Don't say anything about racism. People will just think of you as 'the black one'." For that reason, I rejected the advice. I understand why Iain Smith says that today's debate should not be dominated by one issue, but I make no apology for devoting my remarks to it.

Much of the bill should be entirely uncontroversial. No one could disagree with a word of the policy objectives and, from the responses of the organisations that provide services on the ground, it is clear that few could argue with much of the detail of the bill. The only reason for any controversy is a demand that we abandon the principle of considering potential adoptive parents on their merits, taking into account the interests of the child as our paramount concern, and instead rule out of consideration whole groups in society, without knowing anything about individuals' circumstances. Never mind the implicit insult that that proposal represents to existing unmarried couples and same-sex couples who are parents and who, like other parents, are

doing their best for the children in their lives. Let us ignore that insult for a moment and look at the proposal. It is based on the assumption that such parents are inferior parents—that they will do a less decent job and that their children will suffer harm because of that aspect of their lives. If that assumption is to be put to us seriously, it should be backed up by robust evidence.

Instead of decent research that backs up the assumption, however, we have seen the kind of junk science that has been circulated to MSPs by the Christian Institute, and a prejudiced letter. I do not conflate religion with prejudice; there are atheists—I am an atheist—who are prejudiced against people on ground of sexuality. Just as I do not blame their atheism for that, I do not blame religion for Bishop Devine's prejudice, although prejudice it is.

Let us look at his letter. The thing that struck me most in the letter that we have all received is the different language that is used to describe different human beings in our society. When describing married mixed-sex couples, the bishop writes of "a loving environment", a "wholesome home life" and "the care and protection of a mother and father."

However, when describing same-sex couples who are, in my view, also loving to each other and their children if they have them, the bishop uses the phrase "homosexual lifestyles". Frankly, the man knows nothing about my lifestyle or any of the lifestyles of the people he writes about. In my reply to the letter, I highlighted that difference in language and explained the insult that it implies.

I highlighted another aspect of the letter, which almost made me smile when I read it. It appears to present the image of a society in which religious communities are excluded from the Executive's policy-making process while lesbian, gay, bisexual and transgender organisations are free to take what the bishop calls "gay demands" right to the heart of Government. Nothing could be further from the truth. As members are well aware, this week the First Minister held a meeting, as he does frequently, with leaders of religious communities from throughout Scotland, at which I am sure they discussed a range of policy issues. LGBT organisations, like most others, have to go through the normal policy-making and consultation processes. I am sure that they would expect nothing less.

I mentioned in my letter to the bishop my criticism of the Executive on matters such as sending responsibility for civil partnerships to Westminster and not legislating on hate crimes, but I doubt that I will persuade the bishop that religious communities are taken more seriously than LGBT communities in Scotland.

The last point that I made to the bishop was the disappointment that I feel when religious communities are so misrepresented by their own leaders.

Roseanna Cunningham: Will the member give way?

Patrick Harvie: I am sorry; I am in my last minute. I know practising Catholics who are furious when issues of personal morality are promoted as the priorities of figures in the religious hierarchy, instead of the degradation of our planet, the vicious treatment of asylum seekers in our communities, war and poverty. Those are the great moral issues of our age and great moral leaders should prioritise them, rather than judge other people's private lives and demand that Government do the same.

15:47

Scott Barrie (Dunfermline West) (Lab): Like some other members, I spent several years as a member of a local authority fostering and adoption panel. I even had occasional responsibility for chairing the meetings and approving the detailed minutes.

Probably the closest that I will ever get to playing God is when I have had to recommend whether a young person should be approved for permanent substitute care or whether an applicant should be approved as a foster carer or potential adopter, or to recommend a match between a child and a new family. It was an incredibly tough task, but immensely gratifying, not because I have a secret ambition to be the Almighty, but because of a motivation and drive to do the right thing by the young person concerned. That should be our motivation today—to do the right thing by the young people of Scotland.

On reading the evidence presented to the Education Committee, I noted that several witnesses said that the adoption and permanence process is not about giving adults the right to adopt or foster; it is about ensuring that we find suitable families capable of offering stable placements that will meet the particular needs of an individual child or sibling group. In essence, the process is all about rights for young people, not rights for adults.

If birth families had a monopoly on good parenting and had their child's interests at heart, we would rarely have to consider or provide extra-familial substitute care, but that is not the Scotland in which we live. The unfortunate fact is that some birth parents, albeit a small minority, are unable or unwilling to provide the care, love, attention and nurturing that their offspring need.

Contrary to what some people have alleged, the bill is not about gay adoption or giving to gay people the right to adopt—other members have said this afternoon that they already have that right. The only issue is that gay people cannot adopt as a couple. Currently, only one individual in the partnership can adopt. Let us make no mistake; that is already happening in Scotland, contrary to what some people might think or what some organisations have alleged.

If we are serious about improving the chances for some of our young people, and if we are honest about Scotland as it is—not a mythical throwback to a Scotland that maybe never existed—we will do the right thing today and agree to the general principles of the bill. Planning for a child's future cannot be a pick-and-mix process. We need a well-thought-through and comprehensive but adaptable legal framework that meets the individual needs of all children, not just those who happen conveniently to fall into a predetermined category. That means that we must have flexibility.

As others have already acknowledged, those young people who require permanence—through adoption, permanent fostering or long-term kinship care—are unlikely to be babies. The days of mothers relinquishing their babies at birth and adoption placements taking place six weeks later have gone. It is almost unheard of for an adoption agency, particularly a local authority, to be involved in such a case. The young people who require permanence are most likely to be the same youngsters who experience the social, educational and behavioural difficulties that I and other members have often spoken about in the chamber.

The bill is not just about adoption, important though that is. A major proposal is the creation of permanence orders. They are a significant step forward from the parental responsibilities orders in the Children (Scotland) Act 1995. Although they have rarely been used, parental responsibilities orders were themselves a major step forward from the previous directions that were made by local authorities under section 16 of the Social Work (Scotland) Act 1968. The idea of parental rights being invested in a local authority may have been okay for legislation rooted in the mid-1960s, but 30 years later the flaws in that legislation had become glaring.

The new permanence orders have the potential to provide greater stability for young people in substitute care and could allow foster carers to have more legal certainty in day-to-day decision making. I am glad that the minister acknowledged, in response to my earlier intervention, that some more work needs to be done on the interaction of the new permanence orders with the requirements

of the children's hearings system. Before the enactment of the Children (Scotland) Act 1995, there was always tension involved in plans for the adoption of a child who was already subject to a supervision requirement. I am keen that we do not replicate similar difficulties when enacting the new permanence orders procedure.

I would like to raise one further issue with the minister. We all know that too many young people drift in the public care system. I sincerely ask the minister, either in the bill or perhaps through guidance, to ensure that local authorities are properly planning for youngsters in their care. Far too many youngsters who could have benefited from permanence, either through permanent fostering or through adoption, never got that opportunity in the past, because people were afraid of making proper plans, or just did not get round to making proper plans for them. We must ensure that local authorities, perhaps using the regulatory framework, carry out their responsibilities fully and make the plans that they need to make.

The bill aims to improve the adoption and fostering services available in Scotland. I sincerely believe that it will, and I urge all members to agree to the general principles of the bill.

15:53

Dave Petrie (Highlands and Islands) (Con):

Any issue concerning children must be tackled sensitively and examined with the utmost scrutiny. As other members have said, whatever decision we reach today must be driven by the best interests of the child. As a parent and a former teacher and children's panel member, I am only too well aware of the importance to a child of a stable family background. Children are one of the most vulnerable groups in our society, and the protection and development of a child's formative years are of paramount importance.

Public opinion would appear to agree. Since I arrived in Parliament, child protection issues have featured strongly in my mailbag. We could spend a whole week debating the pros and cons of parenting skills, whatever the gender of parent or child. Whatever happens in connection with today's debate, some of us will be casting a shadow over our popularity whatever we say.

It is clear that the primary bone of contention in the bill is the same-sex couple aspect of adoption law. There is a moral issue. I believe that a loving, committed relationship is the best place in which to bring up a child as it provides the stability and support that children need to grow into mature, responsible adults. The busy schedule of a parent, which involves the notorious school run, homework duties and school holiday care—to

name but a few tasks—is made a lot easier when the job is shared by two people. I feel that the family and a committed long-term relationship provide a sense of stability and commitment that is good for our society. Therefore, I am pleased that the bill goes some way to promoting that pattern.

We have seen the introduction of civil partnerships for homosexual couples and we are now considering adoption rights for the same section of our society. It strikes me that the granting of such rights is a logical progression and a reflection of how society has changed in recent years. Let me be clear that although the bill is welcome it will have no significant effect on the loving care that is given to children by same-sex couples throughout our country—with in vitro fertilisation or individual adoption rights, homosexual couples throughout Scotland are playing the parental role to many grateful children. However, by allowing couples to adopt, we will create a more secure and positive situation for all involved. If a homosexual couple want to adopt, they will adopt. It is far better that we allow them to adopt together and thereby prevent any confusion and bureaucratic obstacles in relation to who has authority to make parental decisions or who might be seen in the child's eyes as the real parent. By not implementing the bill, we would do nothing to support the child; in fact, we would do the opposite.

At the risk of repeating myself, I state that my personal view is that a loving and stable family is the best situation in which to raise a family. That does not mean that I am being judgmental or critical of alternative ways in which people may choose to live their lives. I accept that the situation that I describe does not always work for everyone and we should be mindful not to set restrictive criteria by which all people should be bound to live. However, I have concerns about aspects of the bill. In addition to extending the scope of adoption rights to homosexual couples in a civil partnership, the proposed legislation will also enable anyone in a non-formalised relationship to adopt. The importance and gravity of taking on the responsibility of parenthood should not be underestimated. The many extra problems that can often come with adopted children mean that the responsibility can be even greater. I cannot help but wonder whether a couple not prepared to show their commitment through an official ceremony—it does not have to be religious, formal or on a grand scale—will provide the responsible and secure background necessary for children to grow up in.

Patrick Harvie: I cannot help asking whether the same principle does not apply. If it is right to recognise through allowing joint adoption that in effect the same-sex partner of a parent is also a parent, is it not also right to recognise that two

people who live together but are not in a formalised relationship can also both be effective parents and that joint adoption makes sense on the same terms?

Dave Petrie: I am not suggesting that they will not be good parents. All that I am saying is that we are looking at commitment and that if people want to commit themselves to being good parents, it makes sense, from the point of view of security for the child, for them to enter a civil partnership. The proposal to enable anyone in a non-formalised relationship to adopt could undermine the welfare of the child. I would accordingly support any proposal to remove that provision.

I support the general aims of the bill, from a child welfare point of view. I welcome the fact that, by increasing the number of couples potentially available for adoption, the bill will give many more children the opportunity to be brought up in a stable, loving environment. I feel that assessing each case individually will be a safety barrier against a child being placed into undesirable or harmful situations.

Parenting is a human instinct and is not specific to a certain sex or sexual orientation—it exists within us all.

16:00

Ms Rosemary Byrne (South of Scotland) (Sol): Solidarity supports the general principles of the Adoption and Children (Scotland) Bill and we are pleased that the bill recognises the changes in modern society and the different structures of families that exist.

We believe that allowing civil partners, unmarried couples and same-sex couples who are not in civil partnerships to adopt jointly will increase the legal protection that is available to children and increase the number of people who will be able to adopt. It will relieve the current shortage and is an eminently sensible move. The main criterion for the consideration of prospective adoptive parents should be what is in the best interests of the child and not the sexual orientation or marital status of the prospective adoptive parents. I agree with Scott Barrie that we should do the right thing for the child and for those people who are most suited to bringing the child up, regardless of background, sexual orientation or whatever.

I want to concentrate on kinship care, which is an issue that I have raised in the chamber on numerous occasions. I am keen that the involvement of the extended family should be considered before a permanence order or adoption is moved on. I believe that the extended family is well equipped in many cases to take on the role of parenting and looking after children.

Indeed, I would like there to be a move to ensure that all kinship carers are recognised and given the right support—including financial—to bring up children.

It is mainly, although not always, grandparents who are in the position of kinship carers. Funding to take those people out of relative poverty is extremely important. As other members have said, no grandparents prepare themselves for having to bring up their grandchildren, so it is extremely important that we have support in place for them. Local authorities can give funding, but we find in casework that there are loopholes all over the place and that it is extremely difficult to get to the nub of who is and is not entitled to funding. I look forward to Professor Aldgate's report, but I regret that it did not come out before discussion on the bill began. The research into kinship care that the Executive has requested is important and I regret that we are still waiting for it. I hope that we will see it soon.

Family group conferencing is a crucial aspect of including the extended family. I hope that the recommendations made by some children's organisations will be taken on board at stage 2 and that amendments will be made to ensure that the recommendations are embedded in the bill.

It concerns me that the report "Hidden Harm—Next Steps: Supporting Children—Working with Parents", which I believe was put together in good faith, talks about putting children up for adoption if there is drug misuse in the family and severe addiction. I reiterate that the extended family has a role in such situations. All too often, people come to my surgeries because children have been removed from the family for their own protection—I do not criticise that—but the grandparents have not been involved at all. In fact, in the most recent case we had, the best that the grandparents could get was to send a photograph and get some phone calls.

That is not good enough when such people are ready and waiting to be part of the extended family. The point is not whether they can take on the role of bringing up the children; the point is to maintain contact with the children and ensure that they know where they come from. That is extremely important, even if the family cannot take on the children. However, when they can do that, we must support them.

Permanence orders will make a difference to many young people who are looked after in local authority care at the moment. We know the failures that there have been with looked-after children, and I hope that permanence orders will make a huge difference to those children's lives.

I am concerned that the bill will not do enough for foster carers. The Fostering Network has

expressed a number of concerns. In Scotland, 3,493 children are living with foster carers; we should consider how we can support those carers. A number of foster carers I have spoken to are looking for a protocol, for training and for a national level of payments. I welcome the fact that we are considering payments and I look forward to the report. I am saddened that we have not had the report before stage 1, but I know that it is forthcoming. However, I ask the minister to make some comment on a protocol and on training for foster carers.

Many children in today's society have social, emotional and behavioural difficulties because of their background. It can be extremely difficult when those children go into foster care. The job requires a high degree of training; carers must be well equipped and have good support. I would like to see more about that in the bill, and I look forward to hearing what the minister has to say.

16:06

Susan Deacon (Edinburgh East and Musselburgh) (Lab): I genuinely believe that it is incumbent on us all to work as hard as we can to make a reality of that oft-spoken piece of rhetoric—that every child should get the best possible start in life. We all share that aspiration and we may all agree that the bill could be another step forward towards making a reality of the commitment.

I will focus on three points today; the temptation to comment on others is immense, but I shall resist it. First, I sound a note of caution about the limitations of legislation in this field. I have been struck by the power of the argument made by Children 1st and many others, including many in the chamber, about the importance of involving the wider family. I feel strongly about the importance of providing pre-adoption and post-adoption support services. However, I worry about the extent to which we should seek to prescribe in statute the details of how such arrangements can be put in place. I worry that legislation can often be a proxy for the kind of change to culture and practice that we will need if services are to be meaningful. I would like the minister to comment on what other steps he might be taking—alongside the changes to legislation—to ensure that changes in culture and behaviour come about.

I do not think that my second point has been mentioned today—it is on the issue of intercountry adoption. The bill contains important provisions on the issue. There are only a small number of cases each year, but they are hugely important for the individuals involved. The issue was subject to very little scrutiny at stage 1 and very little evidence was submitted on it.

Serious concerns about the bill's provisions have been raised with me by a constituent who is involved in a support group with other parents who have been through the intercountry adoption procedure. I have written to the minister and to the convener of the Education Committee, asking for those concerns to be considered further at stage 2. I hope that that will happen.

The third point concerns an issue that certainly does not take up the lion's share of the bill but certainly takes up the lion's share of the attention that is devoted to the bill. It is the issue of the proposed change that will allow joint adoption by unmarried couples, including same-sex couples.

I have the utmost respect for individuals from right across the spectrum of opinions on this issue. I respect Roseanna Cunningham—she is not in the chamber at the moment—for articulating her view, even though I directly disagree with it. The key, in this as in so many other areas, is to be able to exchange views in a measured and mature way, in a tone of mutual tolerance and respect. The reason why so many people have referred to the letter from the Bishop of Motherwell is that, sadly, it does not engage the arguments in such a tone. However, it is important that we engage in debate on the issue.

The minister made it clear that the proposals do not redraw the moral line. Many adopted children live with unmarried individuals, including in some cases individuals who are in a same-sex relationship. The bill simply recognises joint adoption and the role of both individuals in a couple.

The Education Committee made crystal clear in its report its unanimous opinion that the bill will increase the legal protection that is available to children. As Elaine Murray said, Scotland's commissioner for children and young people has said that the new approach will bring greater stability. We must also consider the wider picture of the importance of a loving family environment, which is defined not by its structure but by the quality of the relationships involved. Families come in many different shapes and forms. Some 47 per cent of all children in Scotland are born outside marriage. We cannot suggest that such children are second-class citizens. As I said, many children live in same-sex-relationship households. Are we saying that somehow the family life of such children is inferior to that of other children? Many of us have seen at first hand how happy, stable and loving such families and home environments can be.

Roseanna Cunningham mentioned public opinion. None of us has a monopoly on insight into public opinion, so we should tread carefully on such matters, but I have been struck by the extent to which civil partnerships have been recognised

and welcomed in our society. Even people who previously might have been a bit doubtful or even judgmental about same-sex relationships are considering the people they know who are seeking formal recognition for their partnership and saying, "They're happy, they love each other; that is what matters." On the simplest level, that is also what matters in the context of the bill.

We need to consider the bill in a wider context. In the Parliament we spend much of our time picking up the pieces of broken lives. We spend time thinking about sticking-plaster solutions for problems such as antisocial behaviour, disruption in the classroom, youth crime and drug addiction, although we know that a stable, loving family environment in a child's early years can be critical in determining the child's life outcomes. If the bill ensures that one more child in Scotland is able to live in a loving family environment and therefore have a better life outcome, it is worth supporting. I endorse the general principles of the bill.

16:12

Ms Maureen Watt (North East Scotland) (SNP): I, too, welcome the bill. There is no doubt that the laws on adoption that were made early in the previous century are no longer fit for purpose.

I am glad that important aspects of the bill are getting a thorough airing, so I do not intend to refer to section 31, other than to comment that although arriving in the Parliament mid-term had its disadvantages, because I have had to play catch-up, one advantage is that I have not made it on to the Bishop of Motherwell's mailing list.

As members have said, the individual child must be the focus of adoption procedures. As the minister said, older children, rather than babes in arms, are increasingly being considered for adoption. The wishes and views of those children must be heard and taken into account. The child's interests must be considered first and foremost and if the child can articulate their wishes, they must be listened to.

I am concerned about the provisions that will allow parental consent to be dispensed with if a parent or guardian is unlikely to be able to safeguard and promote their child's health, development and welfare during the child's early years. The parent's situation might not be permanent. Many young parents are afflicted by alcohol and drug addictions and many women, in particular, are desperate to beat their addictions so that they can develop parenting skills and become good parents.

Like Euan Robson, I welcome the introduction of permanence orders, which will give flexibility that has not hitherto been available. Adoption has a great finality about it—it is a separation from birth

parents, with no going back. That creates traumas. I know of young adults who, when they could, were desperate to find their birth parents but who at the same time did not want to offend their adoptive parents. One individual was left to lead a double life as a result of balancing their contact with both families. I therefore urge the minister to ensure that support services are not time limited. They must be holistic and available to adoptees and adoptive parents on a needs basis, regardless of time. Contact orders must be allowed, to minimise the traumatic experiences of some. I refer to the comments of Children 1st, which advocates wider family involvement, whether through arrangements for shared care or through future planning that may lead to adoption. In our deliberations, we must take into account the research that has been done in Ireland and elsewhere that shows the positive benefits of kinship care.

People whom I have met to discuss children in care have given me the impression that some social workers do not always give kinship placement due weight. I acknowledge that social workers are hugely overloaded and that adoption may be seen as an easy solution that brings finality to cases, but it is not always in the child's best interests. I know of cases in which parents and grandparents had no access to children while they were in care or going through the process of adoption—they were not allowed to forward birthday and Christmas presents or letters, which is extremely sad. Guidance on that is extremely important if we are to avoid those situations. In such cases, parents and grandparents often have to resort to legal proceedings, which cannot be good for anyone.

Like Adam Ingram, I am disappointed that the minister has not seen it as a necessity to produce the new fostering strategy to be discussed in tandem with the bill. I am not reassured by the minister's comments on that. Discussing the bill before having a fostering strategy is putting the cart before the horse. In 2001, the Executive promised to carry out a comprehensive review of fostering. If we adopted joined-up government, the bill would have been called the children (fostering and adoption) (Scotland) bill. That would have been a holistic approach to dealing with vulnerable children and would have sent out a message from the Parliament about joined-up thinking and government.

Fostering leaves doors open. On any one day, more than 3,400 children are living with about 2,200 foster carers in Scotland. The estimated shortage of foster carers is about 1,700. The funding shortfall of about £5.5 million leaves local authorities struggling to cover costs and condemns foster carers to dig deeply into their pockets, thereby incurring financial hardship. That

is hardly a climate that will encourage families to take up fostering, which is often the first step to adopting. Most local authorities and agencies want clarity on how to deal with the excessive pressure on foster families, which often leads to instability and disruption in children's lives, when fostering falls through.

While the proposed power for the Scottish Executive to set rates for allowances, which addresses the long-term funding concerns, is broadly welcome, fostering involves a greater number of children and greater costs, and deals with complicated support needs. It is an important avenue for getting children out of local authority care and children's homes, which we know fail far too many children in relation to their educational, social and developmental needs. Getting fostering right is essential for many children in Scotland. To give due weight to what Barnardo's, I and others believe to be the importance of fostering, it should have been part of the bill. However, I support the broad principles of the bill.

16:20

Frances Curran (West of Scotland) (SSP):

The bill is extremely progressive. I agree with Susan Deacon about its attempt to provide stability and permanence for children who cannot be looked after by their birth parents. We will support the bill today but it still has a long way to go in a number of areas.

The permanence orders that are provided for in the bill are a progressive step for security and stability, but we are missing an opportunity. One of the big problems is that of finding caring homes for the children who need that stability, permanence and security. The biggest problem will not be using permanence orders but finding families and foster parents where children can be placed with a permanence order.

Although the bill is progressive, it is only half the picture; there are huge bits missing. Iain Smith said that he was reassured by the minister on the issue of the consultation on fostering, which is about to be published, but I am not. We need stage 2 amendments that will allow us, through the bill, not only to give foster parents more rights but to provide them with more stability and support. I hope that the Executive will support such amendments. Local authority guidelines are often not met; as soon as they are registered, foster parents should have the right—

Robert Brown: Will the member taken an intervention?

Frances Curran: Yes.

Robert Brown: I accept the issue about the link between the fostering strategy and adoption

legislation, but would Frances Curran nevertheless accept that it is not a terribly good idea to try to amend such things bit by bit? It really has to be done as a whole and as part of a strategy that considers all the issues together. That is why it is important that we should debate fostering issues in the context of the fostering strategy.

Frances Curran: In that case, when the minister sums up will he explain why the Executive not did wait for the fostering strategy to be published so that it could incorporate its findings into the bill? If he is serious about taking a holistic approach to children and about joined-up government, it would make sense, as Barnardo's points out in its briefing for the debate, to ensure that those issues are covered in the legislation.

If the bill goes through too quickly, other issues will not be addressed, such as support and services. Anecdotal evidence is that often a crisis point tends to be reached in foster families when children get to the teenage years, which are turbulent in any family and for any parent. That happens with or without a permanence order. Most breakdowns in fostering arrangements occur during those years, yet there seems to be no consideration of support at that time for foster parents and the young people who are living in foster families. At that stage, many such children end up back in local authority care, which is ill-equipped to provide for them. It is therefore important to consider where the pressures come from, not just in foster families or adoptive families but in families throughout the country.

Financial security is another issue. In order to get foster parents to come forward, allowances could be built in and not be covered simply in guidelines. We need to appreciate foster families and foster parents. I have friends who are social workers and would like to foster. They work with children and families and would like to give their skills, but they cannot afford to do so. They cannot afford to work part time or give up their jobs altogether to take that step, but they have skills that would be essential for fostering some of the children whom we want to ensure are treated with equality in our society. However, those issues are just not discussed in our consideration of the bill.

I find it depressing that the debate has dredged up the old prejudices yet again. I agree with Susan Deacon that families come in many different shapes and sizes. It is time to recognise that. Let us stop trying to pretend that that sort of society is not the one that we live in, because it is. We do not live in a bubble created by the Catholic Church or other faith organisations; we live in a society in which the statistics show that families come in many shapes and sizes.

The prejudice is not only against same-sex relationships but against lone-parent families. The

idea that only two parents can provide for a family is unacceptable. I am an unmarried mother, and "The Magdalene Sisters" says everything about what would have happened to me in the 1950s. The Catholic Church does not get the right to comment on my parenting skills.

I respect Roseanna Cunningham for raising the issue of public opinion, but it is a false morality because it leads to people in public life—even MSPs—saying one thing about happily married life but then living another life. That hypocrisy does not serve the interests of law making or society as a whole, so let us have an open discussion.

16:27

Mr Kenneth Macintosh (Eastwood) (Lab): Frances Curran ended on a note of anticipation. Despite some of the rather sensationalist coverage of the bill and the debate around it, my experience as a member of the lead committee has been educative and even illuminating. I am not sure that I exactly shared the old-fashioned view of adoption as a process that involved childless couples taking into their homes young babies, usually from young single mothers, but there is no doubt that a residue of that thinking coloured my perspective when I first came to the bill. Indeed, there are still issues to do with secrecy and stigma, mostly from the older generation of adopted individuals, on which I might touch later if I have time. However, as has been made clear in the committee's report and in today's debate, more and more adoptions involve children over the age of two, three, four and above, who might come from chaotic and disturbed backgrounds. Their needs and those of their adoptive families are quite different from those of a few decades ago.

The bill offers necessary reforms of and improvements to adoption law and practice that have been welcomed widely, but one of the most important new developments in it concerns adoption support and the new duty on local authorities to provide adoption services. I thank Barnardo's for enabling me and my colleagues from the Education Committee to meet adults who had been adopted, who gave us their perspectives on the bill. That discussion revealed immediately that, far from stopping at the moment of adoption or shortly thereafter, adopted children's need for support was lifelong. The bill's initial proposal to divide support into pre-adoption services, adoption support services and post-adoption services struck us as creating an artificial divide, and I am delighted that, in its response to our report, the Executive has made a commitment to lodging amendments at stage 2 to address that point.

The minister specifically referred to the anxiety among many people about section 52 of the bill, in

which it is suggested that there might be a limit of three years on the provision of post-adoption services, and I was very pleased to hear his assurance that support will not be time limited. However, I hope that he recognises my continued unease with any proposal that tries to shift legal obligations from one local authority to another. Given our experience, we can all imagine the scenario in which authorities are quick to terminate any continuing responsibility, resulting in a greater time lag before the needs of adopted children or adults are acknowledged.

There are also clearly other problems in adoption support—namely, the patchwork nature of existing support services and the difficulties that families have in accessing them. I will give members a brief selection of comments from Adoption UK's survey of services in this area.

One person writes that there should be

"One named contact who could guide you through the minefield which exists. Practical support is needed, perhaps years into placement, when certain behaviours, disabilities come to light. Financial support and respite are vital."

Another person says:

"I finally accessed support through NHS & then probably only because I had inside knowledge and a very supportive GP! Financial support is vital if the child is older/hard to place with attachment problems."

Another says:

"We were entirely unaware, post-placement or post-adoption, that any support services were available to us. I accidentally stumbled upon Adoption UK's website while surfing for information one day and was hugely surprised that such an agency existed. No-one ... had ever mentioned this agency and its wealth of post adoption support."

That makes me wonder how many other adopters are unaware of the support that might be available to them.

In practice, many adoptive families are struggling to cope with children, traumatised by neglect or abuse, who have been shunted from family to carer to home in a process that is, in itself, too long and drawn out. Those families cannot access the advice, training, counselling or financial assistance that might enable them to make a success of adoption. As Adam Ingram said earlier, an estimated one in five adoptive placements break down—indeed, some say that one in three might be a more accurate figure.

Quite often, in the lead-up to adoption, there will have been intensive social work intervention and families can be keen to get that out of their lives. However, a bigger difficulty lies in getting some professionals to recognise the on-going needs of adopted children. As Adoption UK pointed out, the needs of looked-after children are well

documented and—these days, at least—more widely recognised. However, nearly all adopted children were looked-after children at some point and their needs did not cease at the moment of adoption. Support for adopted children and adults and for their families needs to reflect more closely that which is provided for children in care, not that which is provided for non-adoptive families.

I want to touch on the resource implications of the bill. The Finance Committee provided a helpful analysis in which it questioned the Executive's claims that the measures will be cost neutral. As the Finance Committee highlighted, the bill asks local authorities to provide additional services. As I have already mentioned, support services are thin on the ground. It is difficult to see how we will not create additional demand. Given that we are, undoubtedly, raising expectations, I believe that it would be wrong not to try to meet those expectations.

Fiona Hyslop: We do not intend to vote against the financial resolution on the bill. However, does the member agree that it might be helpful if the Executive took the opportunity to provide supplementary evidence on the financial memorandum during stage 2, for precisely the reasons that he has mentioned?

Mr Macintosh: I do. I believe that, in its initial response, the Executive has highlighted the fact that we are talking about falling numbers of adoptees generally. However, I think that we are looking forward to more work and thought from the Executive at stage 2.

Many members have highlighted the need to address the parallel needs of fostered children and their families. We received powerful evidence, particularly from the Fostering Network Scotland, that highlighted the fact that the nature of fostering has changed and that it is now something akin to a profession or, at least, a skilled job. That evidence highlighted the need for a limit on the number of placements with a foster family, the pressing need for more foster parents to come forward and the need for the necessary funding to support that to be provided. I hope that the minister will recognise the anxiety and unease that exists over the future of fostering and the anticipation with which many await the Executive's comprehensive and powerful national fostering strategy.

An emotive point that emerged during our evidence-taking process related to the need of many involved for information. Birth parents and adopted individuals talked of how, at different times in their lives, they felt a crying need for information about each other. That affected the older generation of adopted people, who were adopted in an age of secrecy and stigma, rather than those who were adopted in the more open system under which we now operate. The adults

to whom I spoke were adamant that they should have control over any information about their lives. However, it was also clear to me that, whether required by the bill or not, further work needs to be done in this area.

This is a welcome bill. I am particularly pleased to see the detailed and generous response of the Executive to the issues that were raised by the Education Committee. I look forward to debating those issues in more detail at stage 2. I commend the bill to the chamber.

16:34

David McLetchie (Edinburgh Pentlands) (Con): In winding up this debate for the Conservative party, I make it clear that the views that I will express are my own and that, as a party, we do not have a collective view on the issues that are raised by the bill. Our MSPs will have a free vote.

I welcome the fact that the proposed changes to the law on adoption have been brought forward in the context of a consolidated bill rather than by way of amendments to existing legislation. I am sure that members of the Parliament's Communities Committee, who are labouring with the complexities of the Planning etc (Scotland) Bill, would have welcomed such an approach. In general, accessibility to our laws, their transparency and people's comprehension of them would all benefit from more codification and consolidation of statutes, so I congratulate the minister on taking that approach.

Although there is a significant area of controversy in the bill, to which I will turn shortly, the proposed changes have been widely welcomed and they follow extensive reviews of the law and practice of adoption. However, we have to ask ourselves a broader question. Why do so few people come forward to offer themselves as adoptive parents and foster parents? In that context, we must differentiate between, on the one hand, step-parent adoptions in which there is a pre-existing family relationship between the adopters and the adopted child and, on the other, situations in which there is no such family relationship. It is the latter category that is of greater concern to us.

At present, only a married couple or a single person can adopt a child. In reality, adoptions by married couples account for about 95 per cent of the 400 or so adoptions in Scotland every year. There is no substantial evidence that amending the law to widen the category of persons who are entitled to adopt will significantly increase the number of people who come forward as adopters.

Fiona Hyslop: As a member of the Education Committee, I point out that the committee

acknowledges that. We do not think that there will be a large expansion as a result of the redefinition. However, the change will be significant for the individuals concerned.

David McLetchie: I was just about to come to that. I acknowledge that the committee was sceptical that the change will significantly increase the number of adopters. The minister, in his evidence to the committee, was vague in the extreme about the increase. He went from suggesting that it might be half a dozen, which would be pretty insignificant, to suggesting that it could be 100, which would be substantial. I suspect that the outcome will be closer to the lower figure than the higher figure, which was a bit of rhetorical flourishing on the part of Mr Peacock.

It is suggested that many people who would otherwise be willing to come forward as adoptive parents or foster parents are deterred by a politically correct screening process that rules out mixed-race adoptions or rejects people because they are too old at 40, because they are of the wrong class, or because of their faith. I accept that a lot of that is anecdotal and, no doubt, some of it is exaggerated, but we would be foolish to deny that it is a common perception and it must discourage some people from coming forward. I ask the minister to examine sections 9 and 10 of the bill and ask whether it is really necessary to provide that the courts or the agency must

"have regard ... to ... the child's religious persuasion, racial origin and cultural and linguistic background".

That is stated in the bill, but a broader interpretation might serve the purpose.

Scott Barrie: Will the member take an intervention?

David McLetchie: No. I am sorry, but I have to make progress.

On the controversial issue of extending the categories of persons who are able to adopt, I have to confess that I find it a difficult issue to judge. I start from the proposition that a case for a change in the law has to be made before we change the law. In the area of adoption, any change must be driven by a desire to secure the best interests of the child and not by pursuit of an equalities or gay rights agenda where the interests of children are relegated to being pawns in a wider social battle.

I am not convinced that the case for change has been made on the basis of the evidence that was presented to the committee. We seem to have a curious, inverted approach in the Parliament. For example, on the question whether the case for change has been made, the committee states in paragraph 48 of its report:

"The Committee notes the very small volume of research that has been conducted in this area and the absence of any objective evidence that indicates that there should be a bar on eligibility to adopt."

Logically, of course, one could say, "The committee notes the very small volume of research that has been conducted in this area and the absence of any objective evidence that indicates that there should be a change in the law." We seem to have got into a curious situation in which, rather than proving a case for change, we have to prove a case for not changing. We seem to have got the whole thing the wrong way round.

Iain Smith: Will the member give way?

David McLetchie: I am sorry, but I must carry on.

Roseanna Cunningham was right to refer to the precautionary principle as an approach that we should take to legislation.

On extending further the categories of person entitled to adopt, now that civil partnerships are permitted in law, I have considerable sympathy for the view that the categories should be extended only to those who have entered into such a partnership and that there should not be a general extension to either mixed-sex couples or same-sex couples who are simply cohabiting. As a general proposition, if a couple cannot make a legally binding commitment to each other, why should our adoption law consider them suitable to make what is the ultimate legal commitment to a child?

I share the objection that many have made to the reference in the bill's short title to

"the care and possession of children".

Children are not possessions and should not be treated as such. Adoption is not a process that enables a child to be acquired as some kind of lifestyle accessory, and I am sure that it was not beyond the wit of the draftsmen to come up with a better description of the relationship. For example, what is wrong with "custody" rather than "possession"?

On balance, I will support the bill at stage 1, because it is not just about the narrow focus that has attracted so much attention. However, I will review its progress in committee—in particular, the deliberations on the amendment on civil partnerships that my friend and colleague Dave Petrie is proposing to lodge at stage 2—and then reconsider the situation when it returns to the chamber at stage 3.

16:41

Fiona Hyslop (Lothians) (SNP): This is an important and much-awaited bill. It draws on the

raw emotions of the human condition, because at its core is a response to love and loss, hurt and harm. We must always remember that behind the bill are many children who need love and support. It is incumbent on us all to put them at the forefront of our consideration.

I agree with David McLetchie on a number of points, which is quite worrying. I agree with him on the consolidation of the legislation, which is a good practice that has emerged. However, we note that there are 83 sections on adoption, 11 on permanence and one on fostering. I echo Susan Deacon's point that perhaps not everything should be done by law. The minister is trying to tell us that the fostering strategy is probably more about policy and regulation than about primary legislation, but we do not know and cannot judge, because we do not have that before us. Many people have raised that concern.

It has been an interesting debate. Adam Ingram set the bill in context as only one part of the wider policy issue and the wider concern about children in care and in need. I am disappointed that those who have commented about children living in families with drug and alcohol misuse are not present to hear that, because that is an important part of the debate. The First Minister says that more children should be taken into care. He should consider the bill's financial memorandum and the absence of a fostering strategy before making such judgments and comments.

Euan Robson talked about permanence orders. They provide the biggest step change in the bill, and they will make a big difference to individuals, especially bearing it in mind that many children who are up for adoption or who need a permanence order are not young, as used to be the case, but older.

Elaine Murray made an interesting point about a partnership being tested as part of the assessment process. That is an important idea and should be considered.

There are different opinions, and if they are expressed in a measured way in the chamber, they should be listened to and taken account of. Roseanna Cunningham talked about whether there was a need for an opt-out requirement for faith-based agencies. The committee tested that idea to a considerable extent, and we came to the view that it would not be required. However, it is clear that there is much to be learned from the two faith-based agencies that gave evidence, particularly on the need for a national perspective on operation and advice. I hope that the minister will consider that.

At the end of the day, the issue is about children and what is in their interests. I take the minister's point about children's advice and views being

heard, and we may need to test that at stage 2. There were also some important contributions about contact orders.

I am concerned about the leave-of-court procedure, about which the Faculty of Advocates is concerned, because it is not a part of Scots law.

Scott Barrie made an important point about delay in the system. I am not convinced that changing the definition will create big growth in adoption numbers; that awaits proof. However, it will speed the system and stop the drift and delay. The adoption process can take several years, which is a lifetime to young children. That must be addressed.

Kinship care has been discussed a lot and well argued. Unless the minister says so in his summing-up, I will not be convinced that the Executive has proposals on the table from which we can take comfort. I would like to hear something a bit more exact from him.

Maureen Watt made an excellent speech that addressed many of the key issues that we must consider at stage 2. A particular issue is the idea that the adoption process is long lasting. The sense of identity that teenagers or sometimes people in their early 20s may want, even if they were adopted earlier, needs to be recognised. Support needs to be given at a later stage. Not having a fostering strategy to consider puts the cart before the horse, as Maureen Watt said.

Maureen Watt also talked about the state as parent. We need to ensure that children can go into loving family homes because the state is not the best provider of services, support and parenting for children, despite the dedication that is shown by many people who work in the sector. We have an obligation to do something about that.

Members, including David McLetchie, have talked about evidence. I do not think that evidence exists either way; we were not convinced of any evidence either way. However, that does not mean that we should not do the right thing. If the life chances of a small number of people can be affected, we should take action. If no evidence exists, that does not mean that we should have complete inaction. Inaction has for far too long bedevilled the adoption system, which needs to change.

I urge members who are thinking about voting against the motion to note that this is stage 1 and that there is far too much detail that affects adoption more widely for members to vote against the motion now. Opportunities will arise at stages 2 and 3. I see the logic of David Petrie's proposal, although I happen to disagree with it. I urge members not to throw the baby out with the bath water by rejecting the bill. In his e-mail to us, John

Deighan suggested that a vote of conscience should be taken at stages 2 and 3.

We do not want to lock children out of loving homes, whether that means one or two children or the tens of thousands whom the bill could affect. We need to widen the pool of adopters. The rights of children to be adopted and to be given the love and care of a family home should come before any trade-off that involves individuals' rights. The bill will create no right of individuals to adopt.

Patrick Harvie normally makes good speeches, but I was disappointed that he did not mention children and that his speech was not about children. If we are to persuade people, we must ensure that the rights of children come first. That is precisely what representatives of gay organisations who gave evidence to the Education Committee did: they focused on the child's needs.

Patrick Harvie: Will the member give way?

Fiona Hyslop: No—the Presiding Officer has indicated that I need to finish.

The whole point of the bill is stability and the arguments about that are important. If members think that unmarried opposite-sex couples or same-sex couples should not be allowed to adopt as couples, perhaps they should lodge amendments to remove the opportunities for individuals to adopt. If the precautionary principle were applied, such opportunities would be removed. However, I doubt whether anybody would be prepared to do that.

I say to members who are deciding how to vote that they must look to their conscience. As Lord James Douglas-Hamilton said, the question is one of compassion and wisdom. Wisdom says that we should consider the bill at stages 2 and 3. On compassion, our conscience should be not worn on our sleeve but felt in our heart. Conscience puts children first. I support the bill.

16:49

The Deputy Minister for Education and Young People (Robert Brown): I will begin my summation by thanking for their work the Education Committee, the other committees and the individuals and groups that have taken part in the bill process. The bill concerns a complex area of law that affects very profoundly the chances of children—some among the most disadvantaged in society—who all need the love and support of parents as they make their journey through life. In the present circumstances, an adoptive or fostering family is not available for some of those children. That is an important point that underlies some of the debate.

Today's debate has been excellent; it has been one of the highest quality debates that we have

had in this Parliament, with some excellent speeches from all sides of the chamber.

As we know, the Adoption and Children (Scotland) Bill deals with adoption and the new status of permanence orders. Euan Robson spoke well about the advantages and improvements that those orders will bring about. The bill also touches on aspects of foster care, and I will return to that point. Although the legal framework for fostering is generally robust, we are developing the important fostering strategy, which we hope to publish for consultation before the end of the year.

Even during my lifetime, the purpose of adoption and the place of children have shifted substantially. When I was involved in adoption law as a solicitor, most adoptions were either of young babies who had been given up by their mothers, often against the background of a different social climate, or they were step-parent adoptions to adopt into a new marriage the child of one of the partners. In either event, the idea was that the child lost his or her birth identity and usually had no contact with the birth parents. Today, we are much more aware of the importance of the young person knowing who they are and where they come from, and of the centrality of their identity to their well-being.

As I said, we have had a very good debate; superb, in fact. We have heard from those who have looked into the bill in detail at committee, and from those who have personal experience through casework, professional practice and—quite movingly—their own lives. That has enriched our consideration of the issues. I am glad that there has been widespread support for the broad sweep of our proposals from across the parties and the chamber.

There has, of course, been the controversial proposal to allow unmarried couples, including same-sex couples, to adopt jointly. I do not want to say much more about that. The arguments on both sides of the issue have been eloquently put, and we stand by the bill in this particular regard. If members are seeking an exemplar of the arguments in support of the proposal, they will have to go to Elaine Murray, who gave one of the classic speeches on the issue.

For the record, I repeat that the key criterion for all decisions taken under the bill is that they should be taken in the best interests of the child concerned. No one, whatever their status, has a right to adopt a child. Equally, as the Education Committee stated,

“extending the eligibility to apply to adopt to unmarried couples is unlikely to lead to massive increases in adoption applications but will improve the life chances of those children who are involved.”

For some of those children, the choice is not between being adopted or fostered into a traditional family, if you like, or into an unmarried partnership of some sort; the choice is between being adopted or fostered or not. If not, they will remain either in bad conditions in their personal situation, or in institutional care, which we know does not exactly enhance their opportunities either.

The Education Committee has handled this sensitive issue with good sense and discretion, and has done an excellent job in taking evidence from the many diverse groups that have an interest in the bill. As I have said before, we have gained a sense of the chamber's view from the debate, and that view will stand against some of the more extreme views that we have heard from outside the chamber.

I am clear that the work of the faith-based adoption agencies is vital and we want them to continue their valuable work. A little while ago, I met representatives from St Margaret's Children and Family Care Society, and the St Andrew's Children's Society. I wanted to see whether, amongst other things, there are ways in which we can work with them and with the other agencies in the field to identify and support more good, prospective adoptive, permanence or foster parents to give more children an improved chance in life. That is an important aspect of the matter and many have commented on the quality of the evidence from those two societies.

Although the main thrust of the bill is adoption, it is part of a larger package of initiatives that are aimed at achieving a step change in the outcomes and life experiences of looked-after children. We have already shown commitment by financing pilot models that target a spectrum of obstacles, to improve the educational outcomes of looked-after children. The more choices, more chances strategy has recently been launched. It aims to reduce the proportion of young people who are not in education, employment or training, of whom care leavers are a priority group. We want there to be ambitious services and aspirational attitudes. From speeches right across the board, I can see that the chamber's view is that, while the problems faced by looked-after children can be deep-rooted and difficult, they are not impossible and they must be dealt with.

I emphasise the huge debt that is owed to the efforts of adoptive parents and foster carers in tackling such problems. They take vulnerable and challenging youngsters into their homes and offer them care and support in a way that many of us would feel unable to do. In many instances, in doing so they turn around the lives of the young people concerned.

Given that the bill has 113 sections, many of which are complex, technical and difficult, the suggestion that we should have dealt with broader issues of fostering in the bill is not particularly practical. The bill recognises the crucial role of such carers by requiring authorities to ensure that support services, which are vital to maintaining successful placements, are made available to adoptive parents. As we have pointed out, the bill takes account of the through-life aspect, which the Executive very much takes on board.

Our commitment to fostering was underlined by the extra £12 million that we allocated to local authorities to help them to develop services further. We want to make more moves in that direction. Ministers are very clear—if they were not clear beforehand, they will certainly be clear after today's debate—about the importance and urgency of the fostering strategy and the various connected aspects. However, the strategy will need to deal with many difficult issues, such as the maximum number of children in foster families, the levels of support, issues of multiple placements, the training for foster parents that Rosemary Byrne mentioned and the issue of the state being a corporate parent. Above all, the strategy will also need to take forward the work on kinship care and on fostering allowances, both of which are complex issues that present a number of challenges. However, we have said that we will bring substantive proposals before the chamber.

I want to respond to several points that members made along the line. Fiona Hyslop highlighted the importance of adoption leave. I agree with her that the provision of such leave is good practice among good employers. However, as a reserved issue, the matter is not within the powers of this Parliament.

Adam Ingram and others mentioned family group conferencing, which is a procedure or format that the Executive supports. Family group conferencing is appropriate in many situations—although perhaps not in all—and is one of a number of facilities that should be taken into account by the people involved in these issues.

Several members, including Adam Ingram, suggested that the bill fails to give a voice to children. However, I have already quoted section 9(4), which I read out in response to Roseanna Cunningham. There may be issues about the wording of the section, which we would be more than happy to consider in further detail, but the intention is certainly that the views of the child and the child's best interests across the board—whatever the child's age—should be taken into account by all concerned and in the right way. That is an important aspect that underlies much of our legislation.

Euan Robson talked about the best interests of the child, which is the issue that has perhaps

dominated the debate. Section 9(3) mentions

“the need to safeguard and promote the welfare of the child throughout the child's life as the paramount consideration.”

Although that is different phraseology, without question the intention is to achieve what is in the best interests of the child. Again, we are not particularly bound to that precise wording, but we have included in the bill wording about the importance of that aspect.

Iain Smith asked about the timescale for the national system of fostering allowances. I point out that we need to consult on that with the relevant agencies, but we will produce detailed proposals once that has been done. By the way, I was interested in Phil Gallie's new-found enthusiasm, in the context of Iain Smith's speech, for the European convention on human rights. I look forward to Phil Gallie's support for the Scottish Commissioner for Human Rights Bill as that proceeds through Parliament.

Scott Barrie made an important point about the need for local authorities to plan properly for the youngsters in their care. How to avoid multiple placements is very much the sort of strategy that we will seek to develop through regulation and in the context of the fostering strategy that we bring forward. We want to ensure that we have excellent services on the ground that deal with people's needs.

Susan Deacon cautioned against trying to prescribe on the face of the bill all the wider issues connected with kinship care and the other matters that we think are important in that context. The bill prescribes that courts are entitled to take on board all the circumstances of the case that need to be taken into account. In adoption and fostering, it is best practice to look to the family, among others, for support of this kind.

At the end of the day, the bill is an important part of a wider strategy that is aimed at significantly improving the lives of many of our most vulnerable children and at meeting the needs of both their birth family and their new family. Our purpose is to give those vulnerable children the day-to-day sense of belonging and security that is vital to their achieving a sense of hope and well-being for the future. They have a right, as we all do, to the kind of family life that allows them the confidence to excel, to achieve their own potential and to become successful and responsible citizens.

I end on the very helpful words of Euan Robson, who said that at the end of the day the judgment on all these matters must be

“What would I want for my child?”

That is a good note on which to finish. I ask Parliament to support the Executive motion and to approve the general principles of the Adoption and Children (Scotland) Bill.

Adoption and Children (Scotland) Bill: Financial Resolution

17:00

The Presiding Officer (Mr George Reid): The next item of business is consideration of motion S2M-4310, in the name of Tom McCabe, on the financial resolution in respect of the Adoption and Children (Scotland) Bill.

Motion moved,

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Adoption and Children (Scotland) Bill, agrees to any increase in expenditure of a kind referred to in paragraph 3(b)(iii) of Rule 9.12 of the Parliament's Standing Orders arising in consequence of the Act.—[*Robert Brown.*]

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

Business Motion

17:00

The Presiding Officer (Mr George Reid): The next item of business is consideration of business motion S2M-4787, in the name of Margaret Curran, on behalf of the Parliamentary Bureau, setting out a business programme.

Motion moved,

That the Parliament agrees the following programme of business—

Wednesday 20 September 2006

2.30 pm Time for Reflection

followed by Parliamentary Bureau Motions

followed by Health Committee Debate: 10th Report 2006, Care Inquiry

followed by Business Motion

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business

Thursday 21 September 2006

9.15 am Parliamentary Bureau Motions

followed by Scottish Conservative and Unionist Party Business

11.40 am General Question Time

12 noon First Minister's Question Time

2.15 pm Themed Question Time—
Environment and Rural
Development;
Health and Community Care

2.55 pm Preliminary Stage Debate:
Edinburgh Airport Rail Link Bill

followed by Financial Resolution: Edinburgh
Airport Rail Link Bill

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business

Wednesday 27 September 2006

2.30 pm Time for Reflection

followed by Parliamentary Bureau Motions

followed by Executive Business

followed by Business Motion

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business

Thursday 28 September 2006

9.15 am Parliamentary Bureau Motions

followed by Executive Business

11.40 am General Question Time
12 noon First Minister's Question Time
2.15 pm Themed Question Time—
Justice and Law Officers;
Enterprise, Transport and Lifelong
Learning
2.55 pm Executive Business
followed by Parliamentary Bureau Motions
5.00 pm Decision Time
followed by Members' Business.—[*Ms Margaret*
Curran.]

Motion agreed to.

Parliamentary Bureau Motions

17:01

The Presiding Officer (Mr George Reid): The next item of business is consideration of two Parliamentary Bureau motions. I ask Margaret Curran to move motion S2M-4779, on approval of a Scottish statutory instrument, and motion S2M-4780, on designation of a lead committee.

Motions moved,

That the Parliament agrees that the draft Automated Registration of Title to Land (Electronic Communications) (Scotland) Order 2006 be approved.

That the Parliament agrees that the Communities Committee be designated as the lead committee in consideration of the Schools (Health Promotion and Nutrition) (Scotland) Bill at Stage 1.—[*Ms Margaret Curran.*]

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

Decision Time

17:01

The Presiding Officer (Mr George Reid):

There are five questions to be put as a result of today's business.

I propose to ask a single question on motions S2M-4770 to S2M-4772 inclusive, on the reappointment of deputy ombudsmen. The question is, that motions S2M-4770 to S2M-4772 inclusive, in the name of John Scott, on the reappointment of deputy ombudsmen, be agreed to.

Motions agreed to.

That the Parliament nominates Lewis Shand Smith to Her Majesty The Queen for reappointment as Deputy Scottish Public Services Ombudsman from 30 September 2006 until 29 September 2007.

That the Parliament nominates Carolyn Hirst to Her Majesty The Queen for reappointment as Deputy Scottish Public Services Ombudsman from 30 September 2006 until 29 September 2007.

That the Parliament nominates Eric Drake to Her Majesty The Queen for reappointment as Deputy Scottish Public Services Ombudsman from 30 September 2006 until 29 September 2007.

The Presiding Officer: The next question is, that motion S2M-4711, in the name of Peter Peacock, on the general principles of the Adoption and Children (Scotland) Bill, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baird, Shiona (North East Scotland) (Green)
 Baker, Richard (North East Scotland) (Lab)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Brownlee, Derek (South of Scotland) (Con)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Canavan, Dennis (Falkirk West) (Ind)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Eadie, Helen (Dunfermline East) (Lab)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Fox, Colin (Lothians) (SSP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)

Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 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)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Leckie, Carolyn (Central Scotland) (SSP)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (Moray) (SNP)
 Lyon, George (Argyll and Bute) (LD)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Campbell (West of Scotland) (Ind)
 Martin, Paul (Glasgow Springburn) (Lab)
 Mather, Jim (Highlands and Islands) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McLetchie, David (Edinburgh Pentlands) (Con)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Morgan, Alasdair (South of Scotland) (SNP)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Petrie, 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)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Swinney, Mr John (North Tayside) (SNP)
 Tosh, Murray (West of Scotland) (Con)

Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Wallace, Mr Jim (Orkney) (LD)
 Watt, Ms Maureen (North East Scotland) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Davidson, Mr David (North East Scotland) (Con)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Johnstone, Alex (North East Scotland) (Con)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)

ABSTENTIONS

Aitken, Bill (Glasgow) (Con)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Cunningham, Roseanna (Perth) (SNP)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Matheson, Michael (Central Scotland) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)

The Presiding Officer: The result of the division is: For 103, Against 8, Abstentions 8.

Motion agreed to.

That the Parliament agrees to the general principles of the Adoption and Children (Scotland) Bill.

The Presiding Officer: The next question is, that motion S2M-4310, in the name of Tom McCabe, on the financial resolution in respect of the Adoption and Children (Scotland) Bill, be agreed to.

Motion agreed to.

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Adoption and Children (Scotland) Bill, agrees to any increase in expenditure of a kind referred to in paragraph 3(b)(iii) of Rule 9.12 of the Parliament's Standing Orders arising in consequence of the Act.

The Presiding Officer: The next question is, that motion S2M-4779, in the name of Margaret Curran, on approval of a Scottish statutory instrument, be agreed to.

Motion agreed to.

That the Parliament agrees that the draft Automated Registration of Title to Land (Electronic Communications) (Scotland) Order 2006 be approved.

The Presiding Officer: The final question is, that motion S2M-4780, in the name of Margaret Curran, on designation of a lead committee, be agreed to.

Motion agreed to.

That the Parliament agrees that the Communities Committee be designated as the lead committee in consideration of the Schools (Health Promotion and Nutrition) (Scotland) Bill at Stage 1.

The Presiding Officer: That concludes decision time.

Penicuik Leisure Facilities

The Deputy Presiding Officer (Trish Godman): The final item of business is a members' business debate on motion S2M-4419, in the name of Christine Grahame, on leisure facilities in Penicuik.

Motion debated,

That the Parliament notes with concern the proposed closure of Ladywood Leisure Centre, Queensway Leisure Centre and the Jackson Street Centre and the threat to Penicuik Town Hall, all valuable resources for Penicuik's people; notes that the consultation by Midlothian Council was initiated after the decision to make the closures and is only directed at the transition of provision to the Penicuik High School development; considers that, while the facilities being provided adjacent to Penicuik High School are to be welcomed, these will not meet the requirement for those facilities which are to be closed nor will have the capacity to accommodate all activities; further considers that these closures will impact on the community's health and well-being, will remove the provision of services to the young in keeping them off the streets and to mothers and elderly people in providing a point of social contact, and considers that the Scottish government should enter into discussions with local community groups, including the community council, to assist in identifying options to ensure that these facilities remain open.

17:05

Christine Grahame (South of Scotland) (SNP): I thank the Deputy Minister for Finance, Public Service Reform and Parliamentary Business in anticipation of his response to the debate, which I believe is the first in seven years to deal specifically with Penicuik. The town is in the invidious position of being under the control of Midlothian Council while also being part of the Scottish Parliament constituency of Tweeddale, Ettrick and Lauderdale, and I sympathise with the many Penicuikians who feel that it tends to fall between two stools.

It is taken as read that the Parliament hesitates to interfere with local authorities' remit and responsibilities. That said, many communities have been thrown into turmoil and many individuals left distressed by the way in which the closure of certain facilities in Penicuik has been decided; by the failure to consult members of the public who will be affected; by the local authority's failure to inform itself of the diverse and distinct social and recreational facilities provided at Jackson Street, Ladywood, Queensway and Penicuik town hall; and by the telling requirements with regard to the capacity of the proposed facilities at Penicuik high school.

Some campaigners are in the public gallery tonight, each of them representing tens of other people. All those people, who number in their thousands, have signed a petition that will come before the Public Petitions Committee on 27

September. I also thank in advance the members from many parties who will no doubt add their comments of support.

How did the situation come about? After years of promises, Midlothian Council took the welcome decision to develop a swimming pool, library and leisure complex adjacent to Penicuik high school. However, at the same time—that is, in February or March—it was virtually decided that Jackson Street adult learning centre, Ladywood community centre and Queensway leisure centre would be closed to ensure that the revenue savings could be used to meet the running costs of the new facilities. People in Penicuik were first made aware of what was happening by an announcement in the local press that the centres would be closed and it was only after making inquiries that they learned that the new leisure development would be predicated on those closures.

Quite apart from the failure to consult on the matter, another issue is the inadequacy of the new facilities. Will they be fit for purpose? Will they have the required capacity, bearing in mind not just how much the current facilities are used but the fact that the population of Penicuik, which at the moment stands at 18,000, is expanding?

For example, what about Ladywood leisure centre? Situated at the heart of Ladywood, it is actually more of a community centre than a leisure centre. Opened in 1984, it is thriving and used to capacity not only by 32 user groups that cover all manner of social activities and sports such as badminton, basketball, table tennis and carpet bowls but by a wide range of organisations such as the Scottish National Blood Transfusion Service. It is also used to hold MSP and councillor surgeries, disability sports training, stroke clubs and so on. In one 12-month period, 110 party events have been booked. More than 1,000 people use the leisure centres at Ladywood and Queensway, and the figures for Jackson Street are the same.

Indeed, the Jackson Street centre, in the heart of Penicuik, provides diverse facilities for a wide range of people, both young and old. The litany of events that it hosts shows that it is quite different from Ladywood—and, indeed, is quite distinctive. It provides facilities for outreach learning; picture-framing groups, who do not know where they will be able to put their frames after they are moved; arts groups; yoga groups; belly-dancing groups—I might join one of those; French and Spanish classes; creative writing groups; numeracy groups; the John Chant centre; and various community groups.

A few months ago, people at the packed meetings held at Jackson Street and Ladywood said loud and clear that Penicuik wants to keep the existing facilities in their own right. After all,

they are accessible by transport and on foot. Moreover, the same facilities, capacity and accessibility will simply not be available at the new development. The development was scheduled to open in December at the latest, but I believe that even that deadline will not be met. In the meantime, groups and individuals are left in hiatus.

I quote from some members of the user groups who use the facilities, who cannot speak for themselves in the Parliament but whose words are extremely important. Sheena and Graeme say:

“Penicuik needs these Community centres for all ages but especially for the young people of Penicuik. Penicuik has more than its fair share of youth problems. To close these centres will only increase what is an ever growing problem.”

Isabel says:

“No consideration has been given to the user groups of all the centres, with no consultation until after the decision had been made. I feel very let down by Midlothian Council.”

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): I absolutely endorse Christine Grahame's comments. Can she outline YMCA Scotland's proposal for young people's facilities at Queensway?

Christine Grahame: I understand that those proposals are currently still not resolved. There were such proposals, but they are still in hiatus and are by no means wholly acceptable. I expect other members to focus on other issues. Mr Purvis will accept that there are several issues to be discussed, and I cannot touch on the town hall as well at present.

I continue with some more quotations, which I am sure Mr Purvis will agree are important. Ali says:

“A couple of years down the line when you realise that this was a huge mistake we can never get these buildings back.”

That is important. I know that it is proper to say that these are local authority decisions, that we should not interfere and that people can vote their councillors out at the next election, but that is not good enough. The problem is that the deed will have been done by then, and we must do more than that. Jean says:

“Decision makers have no idea of user groups' requirements.”

In my brief contribution, I have touched on some of the issues. I have not dealt with them all in detail. For instance, I have not dwelt on the impact when facilities are removed and energetic young people are left with only the street corner to socialise on, the elderly become isolated from comfortable social interaction and young mothers can no longer just sit with other young mothers—

or indeed young fathers—to share the challenges of parenting. It is difficult to put a price on those things, but we all know that they have value.

Colleagues will no doubt develop what I have said and I welcome that, because this is not a party-political issue but a people issue. When we see that so many lack opportunities to exercise and when communities are finding that they have no focal point to engage all sections of the population—as Penicuik has—the actions of Midlothian Council seem bizarre. They are undemocratic not only in process but in principle, and they fly in the face of the Liberal-Labour Government's worthy ambition for healthy, socially inclusive communities. Therefore, I invite the minister and his colleagues, in his response and later, to give weight to interceding on behalf of the community council and other concerned groups and individuals. Funding is required and if we sweep aside the cavalier methods of Midlothian Council, the Minister for Finance and Public Service Reform and his deputy may be able, in the interests of individuals and communities in Penicuik, and in fulfilment of their policies, to make funding sources available to stop the closures. *[Applause.]*

The Deputy Presiding Officer: It is not appropriate for members of the public to applaud.

17:13

Colin Fox (Lothians) (SSP): I congratulate Christine Grahame on securing this members' debate on the provision of leisure services in Penicuik, and I note that the Lothians region is doing well in the draw for members' business debates. Last week, we had a debate on children's services in West Lothian.

I read Christine Grahame's motion with some interest, especially with regard to the council's plans for providing leisure services and the proposed closures of the two sports centres and the learning development centre. I know from the community council's correspondence with MSPs that there has been some concern about the plans and about the extent of the consultation with local people, especially users of the existing facilities. In particular, there are concerns about the ability of the new facilities to cope with the demand.

A statement from Midlothian Council talks about investing £10 million in leisure and library facilities in the town, and I am sure that a bigger library with better services would be welcomed across the board. I am sure that the plans to upgrade the town hall are also welcome, as are the increased outdoor facilities at the high school and the building of a new primary school for Eastfield and Ladywood, to serve the town's burgeoning population.

I know that the long-awaited plan for the swimming pool in the town is probably the most welcome of all. From holding many Scottish Socialist Party meetings in the town—in Shottstown miners welfare club, the high school and the town hall—I know that every time we have a public meeting, the long-expressed desire for a swimming pool is certain to be raised. I am sure that that aspect of the plan is particularly welcomed, as it means that people in Penicuik will not have to travel up to Bonnyrigg or Loanhead for a swim. However, like Christine Grahame I have concerns about the plan. In my experience, swimming pools that are shared with schools raise questions of accessibility at all times for the general public. I have yet to see such facilities work ideally and enable the local community to access the pool when they want to do so.

I am never one to look a gift horse in the mouth, but the trouble is that when I look inside the horse's mouth, I see that one or two teeth are missing. The crux of the debate must be whether demand for sport and leisure facilities and social services, which we would expect to increase as a result of the increased population in the town, will be met.

The council states in its submission that it is satisfied that its plan will meet existing and future demand for facilities and that it will mean

"the largest provision of leisure facilities of any town in Midlothian".

That is very good, but of course Penicuik is the biggest town in Midlothian. Perhaps rather than compare the facilities with those in the rest of Midlothian, the council might want to compare them with those in towns of a similar size throughout Scotland. It seems to me that few towns the size of Penicuik have not had a swimming pool. People have wanted a pool for a long time. The same can be said for library provision.

Against the background of an Executive that is seeking to make greater strides forward in tackling issues such as childhood obesity and bearing in mind the fact that it has been shown in the past few days that our diet is now less healthy than it was 10 years ago, the last thing that we want is to prevent people who are interested in taking up a healthier lifestyle from doing so because of insufficient opportunity or lack of access to facilities.

I hope that even at this late stage the minister will urge the council to involve itself in meaningful consultation with local users, the community council and local people. The council's submission talks at great length about its consultations with sportscotland, but little reference is made to communication with users of the facilities. How will

the elderly people who use the Jackson Street centre be accommodated in the high school? How suitable will the provision be? The existing facilities are primarily at one end of the town. Will facilities that are located at the other end of the town be suitable? I hope that the minister will convey those and other questions to the council on our behalf.

I am happy to support any group that produces a coherent plan for keeping the centres open and is prepared to fight for them. I am sure that we will watch events over the next few months with interest.

17:17

Chris Ballance (South of Scotland) (Green): I congratulate Christine Grahame on securing the debate. I welcome the people of Penicuik who are in the public gallery to show their support for the intentions behind the motion.

The main purpose of the Parliament is to scrutinise the work of the Scottish Executive and to hold it to account, but our secondary duty is to raise issues of public concern when they are not being sorted out in the proper place. It is clear from the public meetings that have been held, from articles in the press and from the interest of local communities that Midlothian Council has failed to consult the people of Midlothian about its plans. It has failed to live up to its mission statement, which states that it will consult people before it goes ahead with proposals.

The proposed reform of community and sporting facilities in Penicuik has not been Midlothian Council's finest hour. Whatever good intentions about public consultation it refers to on its website, it has managed to alienate a significant section of the local people who use the existing services, which will be phased out as new facilities become available.

I hope that, in retrospect, the council would agree that a little bit more consultation would have been right and proper. I hope that it examines its processes and amends them in the light of this debacle.

The inadequacy of the analysis by Midlothian Council and by sportscotland of the sporting usage of the hall and the council's failure to consult local people amount to a sad affair. It is good that the council has partly accepted that, and the fact that it has at least given a short-term reprieve to Penicuik town hall must be welcomed. The possibility that the Queensway leisure centre might continue to operate as a community centre under the auspices of a charity is also to be welcomed, and the decision to retain the John Chant centre demonstrates the possibility of flexibility and suggests that the council has

recognised that it made a mistake. However, the next step is for the council to go back to basics and to start to work with the community and ask people what they want for the budget that is to be expended.

Jeremy Purvis: I am slightly confused by the member's reference to a temporary reprieve for the town hall. Will he expand on what he means by that?

Chris Ballance: As I understand it, the council recently announced that the town hall is to continue in its present role in the short term but has not announced for how long that will be.

At the heart of all this is healthy living in living communities. That means having not only the facilities, be they community centres or sports facilities, but the sense of community that such living communities give. One of the protesters asked where in the new proposals is the provision for old folk to sit down together and have a cup of tea and a blether. Where is that sense of community? Where is the provision for local teenagers that would encourage them to come off the streets and get involved in the local community?

It is important that local people feel empowered and that they have a role in political decisions that affect them. I hope that that will happen in the future in Midlothian. How it is to be achieved is properly a debate for Midlothian and the Midlothian people. It is Midlothian Council's failure to achieve that that has brought us this debate.

17:22

Derek Brownlee (South of Scotland) (Con): I, too, congratulate Christine Grahame on securing the debate.

I agree with much of what Chris Ballance, Colin Fox and Christine Grahame have said. In fact, I will need to check the *Official Report* tomorrow because I think that, apart from his recollection of my attending the SSP meeting in Penicuik, I might agree with almost everything that Colin Fox said, which is certainly not something that happens often.

Colin Fox: I saw you there.

Derek Brownlee: Prove it.

I want to consider the issue more broadly, because although I agree with much of what Christine Grahame said and much in the motion, I do not agree with all of it. That is nothing to do with the merits of the case for retaining the leisure facilities, because I am clear that they should be retained. However, although on many occasions I am not inclined to give the Scottish Government—I think that we should call it that rather than the

Scottish Executive—the benefit of the doubt, in a case such as this I wonder whether we should seriously suggest that the Scottish Government should second-guess the council.

I think that what the council is doing is wrong, but are we honestly suggesting that an expensive tier of government that takes decisions and is, at least in theory, accountable to the people should be superseded by the decisions of ministers? I do not think that we should suggest that, and to go down that route would be problematical.

Frankly, the answer is not to have the Government intervening in the case of individual leisure facilities, however well intentioned that might be and however good the case is—as I said, I think that the case is very good. The answer is to have local government that is more local. The answer would be for Penicuik to have its own town council making decisions, instead of Midlothian Council making decisions about Penicuik.

Christine Grahame: I accept what Mr Brownlee says about local government accountability and the decision that Labour, Liberal and Conservative members of Midlothian Council took, although some of them may have been unaware of the implications of the decision. Heaven forbid that I should defend Midlothian Council, but if the matter is genuinely one of local government funding being squeezed, then central Government must ensure that local authorities generally have the funding to deliver the policies that the Government promotes.

Derek Brownlee: That is the point. Where the Scottish Government comes into this is in the funding that it supplies to Midlothian Council. If that funding is leading the council into making decisions such as the ones that we are discussing, that is where the Government should be held to account. What the Government cannot do—irrespective of the funding that it supplies—is to step in and say, “We will save this facility,” or, “You should close that facility.” That would be quite wrong.

The motion mentions leisure facilities, but we must consider broader issues too. We have to consider not only the leisure facilities in Penicuik but the leisure opportunities. To reduce the leisure facilities still further would, of course, reduce the leisure opportunities. Many people in Penicuik feel that that is what will happen.

Jeremy Purvis and I attended an event last autumn in the Edinburgh City Youth Cafe in Victoria Street and a number of people from Penicuik were there. It is one thing for people from Penicuik to come to Edinburgh to work or for occasional leisure, but many people feel that they have almost no alternative but to come to Edinburgh. That is very depressing.

There is a real issue to be addressed, but I am not convinced that the Scottish Government should intervene in the precise manner that Christine Grahame suggests. The leader of Midlothian Council was pretty critical when I said earlier in the year what many people in Penicuik feel—that Penicuik misses out and is the forgotten town in Midlothian. However, the way to address that is through the council elections and through holding the council to account. Penicuik should retain its current facilities; they should not be closed by a council that does not seem willing to listen. However, if it will not listen, the council and the councillors should be held to account next May.

Although it would be great if the Government could save the facilities, my fear if it cannot save them is that Government intervention of the kind that Christine Grahame suggests would let the council off the hook. Would such intervention not allow the council to avoid the responsibility that it should take for the decisions that it has taken?

17:26

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): It is good this evening to be debating Penicuik, which is in my constituency. As a resident of the town said to me recently, “You can tell there’s an election soon.” However, in a conciliatory spirit, I welcome the recent interest of members who have not shown such a level of interest in Penicuik before.

I agree with Colin Fox’s analysis of the serious issues, and Derek Brownlee’s comments—which may have been an analysis of the motives behind this debate—were very interesting.

I say clearly at the outset that Midlothian Council has handled the proposed changes in Penicuik badly. Let there be no doubt about the view of Liberal Democrat councillors—they did not support the flawed process in the council. Midlothian Council started from the premise that any changes to the Ladywood, Queensway or Jackson Street centres could be done without consultation. Council papers suggest that no consultation was considered necessary, but the council was wrong.

Christine Grahame: For the record, is not it the case that the Liberal Democrat councillors on Midlothian Council voted for the budget that has led to the closures?

Jeremy Purvis: The budget as a document did not lead to the closures. Not only did Liberal Democrat councillors not support the decisions on leisure facilities, they raised the handling of the consultation process with the chief executive.

The feelings that have been expressed at public meetings are genuine, as is the frustration of many

constituents whom I have met since the council made the decision—the good decision—to build the swimming pool and leisure centre adjacent to Penicuik high school. I was at the site 10 days ago with fifth-form students to talk about the future of facilities for young people in the town. However, the process that the council introduced was badly flawed. It did not speak to the local community or to users groups which, as Ms Grahame and others have said, are very vibrant and diverse.

Each month since my election I have held an advice surgery in the town—I will hold one this Friday. Having spoken with local residents and young and old users of the facilities, it is clear to me, as it has been since day one, that there should be no closures and no reduction in facilities unless appropriate and fit-for-purpose alternatives are provided. Indeed, as I have said at public meetings, there should be better facilities.

Notwithstanding my strong views on the failures of Midlothian Council, the motion this evening is inaccurate in substantial areas. In Ladywood, there are good plans for a replacement for Pentland House, with cottages for older people in the vicinity. That is needed. The local primary school is to be replaced with the combined Ladywood and Eastfield primary schools and Strathesk nursery. It will provide a community school with additional facilities—four rooms for community use, including a flexible dining/sports area. There will also be community sports facilities. However, the council did not at the earliest stage explore all the issues with local residents, users of the existing facilities and school staff and parents. When I visited the schools to discuss with staff their concerns about the changes, they said that considerably better information could have been provided.

The Deputy Presiding Officer: You have one minute left.

Jeremy Purvis: I have always thought that the YMCA could have better facilities. I discussed the matter with the young people whom I met during my visit, who told me that they want improved space. The move to the Queensway centre is potentially positive and will increase facilities for young people, especially if the centre is extended, as is currently under discussion.

The motion is therefore wrong to suggest that the transfer of facilities is only to the new facilities at Penicuik high school. The YMCA and its associated youth clubs will potentially have much better facilities in a better location for many of the town's residents, so facilities for young people might be better, not worse.

The motion also suggests that services for young people are about

“keeping them off the streets”.

Youth issues in Penicuik are a bit more sophisticated than the patronising tone of the motion suggests.

I have visited the Jackson Street centre many times and am frustrated by the fact that there has been no development on the site, although development would have been possible. During the Ladywood public meeting, I was discussing the centre with Mr McCall, who is in the gallery, when Ms Grahame interrupted our discussion, thrust her business card into Mr McCall's hand and said, “I'd like to come and visit. I've never been before.” We are talking about Johnnys-come-lately, but I commend the member for catching up with the issue after seven years of being an MSP.

The Deputy Presiding Officer: You should be winding up, Mr Purvis.

Jeremy Purvis: The motion also refers to

“the threat to Penicuik Town Hall”.

However, Midlothian Council proposes to relocate 40 jobs to the town hall as part of a £500,000 modernisation programme, which will open up the hall for community use during the day instead of just in the evening and at weekends. I do not know where the “threat” is coming from.

Penicuik has a strong community, which includes diverse groups. The community needs outstanding leisure facilities and Midlothian Council should take no decision that will put users—

The Deputy Presiding Officer: You must sit down, Mr Purvis.

17:31

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

I congratulate Christine Grahame on securing the debate. The subject is important and affects not just the residents of Penicuik but the wider community of Midlothian, because the closure of facilities generates a ripple effect on people in the surrounding area. The issue is worthy of debate, but I deprecate the remarks of Jeremy Purvis, who made petty and irrelevant comments rather than dealing with the issue at hand.

The loss of community facilities is a story that is unfortunately being repeated, not just in Penicuik and Midlothian, but throughout Scotland. There is no doubt that local government budgets are being squeezed and that decisions are being made—as Derek Brownlee said—such that leisure facilities are unfortunately often first to go. In my area—East Renfrewshire—swimming pools are constantly under threat. Pool opening hours are being cut and the community pool in Neilston is often the main target of such cuts.

The replacement of facilities is welcome, but when multiple facilities in communities are replaced with a centralised facility, there is no like-for-like replacement. The new centralised facility is often smaller with fewer rooms, and is certainly not as handy for people to travel to as were the old facilities in people's communities. The building of a new facility is welcome, but other facilities are often lost when that happens.

Christine Grahame, Colin Fox and Chris Ballance, in particular, talked about the lack of consultation in the context of the Penicuik facilities. Again, the problem is not exclusive to Midlothian and Penicuik. I will cite an example that might serve as a warning to other communities. The Liberal-Labour run East Renfrewshire Council decided to cut the opening hours of local libraries. The council balloted people in the area and asked them, "Do you want the library to open for X hours or Y hours?" The council did not mention that both options represented cuts in library opening hours—the libraries had previously had much longer opening hours. Consultation is good, but it should be meaningful and it should offer people a real choice about what they want for their local libraries, swimming pools or other community and leisure facilities.

The sharing of facilities with schools is good for the schools in question but, as Colin Fox appropriately pointed out, it provides restricted access for other people in the community. By their nature, facilities in schools are more difficult to access because they are part of the school rather than part of the community. People often feel slightly resistant to going to a school to use facilities—maybe that is wrong, but they view the facilities as the school's facilities. Another point is that schools use the facilities five days a week, so they are not available during that time to residents of the area.

The Executive has worthwhile targets on cutting obesity, on fit kids and on reducing antisocial behaviour. Those are welcome and we all support them, but if we do not have community leisure facilities, we will not tackle the problems of a generation of young people who are more interested in sitting in front of a computer than they are in going to the local football pitch or badminton court with their friends to enjoy themselves, or in being active and fit and growing into healthy adults. As members have mentioned, without such facilities, young people hang about on street corners and, whether intentionally or not, cause distress to residents. We end up with conflict in communities, which often leads to further antisocial behaviour. That is unwelcome.

Community leisure facilities have an important role in fighting obesity, tackling antisocial behaviour and making communities cohesive.

That is what we should aim for—we should not close such facilities. I welcome Christine Grahame's debate.

17:36

The Deputy Minister for Finance, Public Service Reform and Parliamentary Business (George Lyon): I, too, congratulate Christine Grahame on securing the debate. I have listened with interest to the speeches of the many members who have stayed behind for it. I do not doubt for a moment that the issues that have been raised are of great importance to people who live and work in Penicuik and its surrounding communities. I certainly take the issues seriously.

Two members mentioned funding. Since 1999, funding for local government has increased by 55 per cent—about £3 billion—which is a substantial increase of which Midlothian Council has had its fair share. No doubt all members have received Midlothian Council's response to the debate. I have been provided with a list of the facilities that the council claims it will provide. The list mentions a £10 million flagship Penicuik community facility, which will include a much-campaigned-for swimming pool, a new library and a leisure centre. The response states that the council will upgrade Penicuik town hall and that it will be secured for community use. I am not sure how that can be described as a threat, as is claimed in the motion. As we heard from Mr Purvis, we understand that 40 extra posts will be transferred to the town hall.

Christine Grahame: For clarity, the proposals for the town hall were produced subsequent to my lodging the motion.

George Lyon: That is a perfectly understandable explanation.

The list states that new outdoor facilities are to be provided—a multisports court, a skate park and a full-size synthetic football pitch. As Mr Purvis mentioned, community facilities are to be provided in Cuiken primary school, the new joint school for Ladywood and Eastfield and Mauricewood primary schools. The list goes on. It is not for me to comment on its accuracy or appropriateness, as it was drawn up and approved by Midlothian Council, whose members are democratically elected.

Colin Fox: Will the minister explain why not one of his 56 Labour colleagues is here for the debate, which is about the Labour-controlled Midlothian Council?

George Lyon: I am not here to respond on behalf of members of the Labour Party in the Parliament—it is up to them to decide whether to attend debates. I am here to respond genuinely to the issues that Christine Grahame has brought to

Parliament for us to discuss, and to issues that have been raised during the debate.

As I said, it is not for me to comment on the accuracy or appropriateness of the list. The council's response states:

"the Scottish parliament should note that overall the Council is providing more facilities, not less for the whole community in Penicuik."

I put it on the record that the Scottish Executive's expectation is that the facilities in Penicuik should be better after the council's changes.

That leads me on to a more fundamental point, which Mr Brownlee raised. It is right and proper that Parliament should be able to consider the performance of councils and to step in where action is justified, but we need to think carefully about when it is appropriate to do so. We need to be clear about the implications of the motion and whether what is being proposed might impact on local democracy and accountability.

I am sure that I speak for all parliamentarians in the chamber when I say that we must respect the independence and the democratic legitimacy that councils have in dealing with the matters that we are debating tonight. In this case, a council as an independent corporate body, having engaged—I acknowledge the criticisms of that engagement—with its electorate, has reached a decision about local provision of services and facilities. The motion calls on the Government

"to enter into discussions with local community groups, including the community council, to assist in identifying options to ensure that these facilities remain open."

I question whether that is really the role that we want central Government to have. Does not that call on us to centralise all decision making?

Surely the overriding principle must be that people need to know that they have direct access to the locally elected councillors who make decisions that affect their communities, that they can participate in democratic involvement in major decisions that will affect them and that they can, when they are dissatisfied with service provision, obtain proper recourse. That means that decisions like those in question must be taken by the people who are locally accountable; they must not be moved up to a higher level that does not have the local knowledge, local accountability or responsibility for delivering services.

It is not by second-guessing every decision that is taken at a local level or through centralising the provision of services—as some might suggest—that central Government can best contribute to improving the quality of services. Rather, central Government's role is to create an environment in which we actively encourage service providers throughout the public sector to focus their attention

on putting the people in their areas at the centre of the design and delivery of public services, and in which those service users have the opportunity to exert a real influence over the people who make those decisions.

I am not in a position to judge whether the local engagement and consultation that Midlothian Council undertook in this particular case was satisfactory. It appears from the debate that it was not—although the local MSP, Jeremy Purvis, has held regular monthly surgeries in Penciluik and has raised local concerns with the council on the issue and many others over a long period. However, I guarantee to Parliament that I shall ensure that the concerns that have been expressed about local engagement, the consultation process and other issues to do with provision of sports facilities are passed on to Midlothian Council. I shall ask the council to respond directly to the members concerned.

As independent corporate bodies, councils are obliged to defend but also to account for their actions and decisions. They are audited annually and there is a considerable amount of scrutiny of the work that they do. In the final analysis, however, the real arbiters of how a council is conducting itself are its electors. Alongside the rest of Scotland, the electors in Midlothian will once again have their say next May.

Meeting closed at 17:43.

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