MEETING OF THE PARLIAMENT

Wednesday 20 September 2006

Session 2

£5.00

Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by Astron.

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Scottish Parliament

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[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. Our time for reflection leader today is Dr Gurudeo Singh Saluja of Westhill, Aberdeenshire.

Dr Gurudeo Singh Saluja: Presiding Officer, members of the Scottish Parliament, ladies and gentlemen, 17 years ago I was invited to join the Scottish constitutional convention, so today it gives me great pleasure to be here with you in Parliament for time for reflection.

The convention's vision was to make Scotland's Parliament truly representative of the wider population. As well as advocating equal representation of men and women, it stressed the importance of the participation of all groups, including ethnic minorities, in Parliament's consultative processes.

Parliament is still less than a decade old, but I believe that it has fulfilled the convention's aspirations to a significant extent and that it will continue along that route. We are all aware that much remains to be done but, at the same time, I believe that there is a will to do it.

Sikhism, the faith family to which I belong, is only 500 years old. It may be old in terms of years, but it is new in comparison with many other religions. The Sikh faith places emphasis on the oneness of God and the equality of all human beings, regardless of religion, ethnic origin, social status, disability and—interestingly—gender. Sikhism teaches that religion should be practised in daily life by living honestly and working hard, by treating everyone well, by being generous to those who are less fortunate and by serving the community.

Those principles of equality and service are reflected in congregational worship in the Sikh temple, or gurdwara, where men and women may take part in leading the service and proclaiming the faith. After the service, the congregation and any guests or visitors are invited to gather together to share in a free meal. The food must be simple, to prevent wealthy congregations from turning the meal into a feast and showing off their prosperity. Although Sikhs are not required to be vegetarian, only vegetarian food is served, so that all may feel free to partake, whatever their dietary customs might be. Members of the congregation provide the food, prepare it, serve it and do the washing and cleaning up afterwards. Everyone—men and women, old and young—may take part in that activity. I believe that those principles of service, participation and equality all resonate strongly with the values that are held by Parliament.

In conclusion, Presiding Officer, I would like to thank you for the opportunity to be here today, and to wish all the very best to the Scottish Parliament in the work that lies ahead.

Care Inquiry

14:34

The Presiding Officer (Mr George Reid): The next item of business is a debate on motion S2M-4795, in the name of Roseanna Cunningham, on the Health Committee's 10th report of 2006, which is on the committee's care inquiry.

14:34

Janis Hughes (Glasgow Rutherglen) (Lab): There can be little doubt that Parliament is proud of the introduction of free personal care for all of Scotland's elderly population. The Community Care and Health (Scotland) Act 2002 was supported by all parties and the policy is rightly seen as one of Parliament's most significant achievements.

As a member of the Health Committee when both the Community Care and Health (Scotland) Act 2002 and the Regulation of Care (Scotland) Act 2001 were scrutinised, I was acutely aware of the work that had gone into ensuring that the legislation was robust and would deliver its objectives. However, the time is now right to evaluate how delivery of care services has changed in the past four years. We might all have supported the proposals in 2002, but how have they worked since then? Has free personal care delivered for Scotland's elderly population? Have there been problems with implementation of the policy?

To answer those questions, the committee decided to conduct formal post-legislative scrutiny of two of the most important acts that have been passed by Parliament. However, because of the wide-ranging nature of both acts, we decided to focus our remit somewhat by identifying key issues. In order to do so, we issued an open call for evidence in June 2005, inviting people with an interest in the legislation to suggest the main issues on which we should focus our inquiry. In addition, we organised a consultation event in Perth in September last year. The event brought together more than 100 people to discuss where the committee should concentrate its energies. A series of workshops identified potential issues. The outcome of the process was a decision to focus on three key elements of the legislation: free personal care for the elderly; the regulation of care services for the elderly; and the take-up of direct payments.

Free personal care has always been the headline-grabbing policy from the legislation, and throughout our inquiry we found a great deal of support for the policy from people throughout Scotland. For many, it is considered to be one of the most positive things Parliament has achieved. The committee found widespread support for the principle of free personal care, and evidence of considerable successes in its implementation.

We received significant evidence from the immediate families of older people—families who have a responsibility to care. The introduction of free personal care appears to have gone a considerable way towards alleviating their concerns about care of their elderly relatives, which has no doubt led to a great deal of support for the policy.

One of the major concerns of the committee back in 2001-02, when we scrutinised the legislation, was that the introduction of free personal care might simply lead to a reduction in informal caring by relatives and others, and might encourage more people to be cared for in institutional settings rather than in their own homes. It appears, however, that that is not happening. The Executive's figures show that the increase in people receiving free personal care while remaining at home is more than double the increase in the number of people in care homes. That is a clear demonstration that the policy appears to be working by allowing elderly people, if they so choose, to remain in their own homes.

Another aspect that characterised pre-2002 care was the number of disputes between local authorities and health boards about who was responsible for the care of many older people. Those who were admitted to hospital, but were considered well enough to leave were often subject to delayed discharge because finding—and funding—care accommodation proved to be difficult. Apart from causing problems for the individuals involved, bedblocking can—as we all know—cause a significant problem for the national health service. The advent of free personal care has addressed that by largely removing the financial barrier and by making discharge much easier. That has had the beneficial knock-on effect of releasing significant NHS resources. The committee feels that that has certainly improved working relations between local councils and health boards, which are now expected to work closely together on delivery of health and care. That can only be advantageous.

In the committee's opinion, the introduction of free personal care has provided greater security and dignity to many elderly people. It has allowed them to be cared for more readily at home, assisted their carers, reduced delayed discharges—thus freeing up NHS resources—and has largely ended disputes between local authorities and health boards about the care of elderly people. It has also led to fewer complaints about care of the elderly being reported to the ombudsman in Scotland than has been the case in

England in Wales, which has prompted consideration of whether such a policy should be introduced in England and Wales. In the main, free personal care has been introduced swiftly and comprehensively.

The committee's conclusions are backed up by research that was undertaken by the University of Stirling for the Joseph Rowntree Foundation. One of the researchers said:

"We found that free personal care in Scotland has promoted more 'joined up' approaches to the care of older people, while reducing their money worries and enabling their relatives and friends to continue to provide additional, informal care. In that way, it has helped to improve the quality of life for frail older people and improve and support their choice of care services."

The committee considers the policy to have been a success: we propose that it continue to be pursued and developed.

However, not everything in the garden is rosy. Although there is widespread support for the policy, which has delivered for many elderly people, the committee acknowledges that there have been problems with implementation. Most of the problems that were described to us relate to funding. We heard serious concerns that the cost of implementing the policy had been underestimated to the extent that significant pressure had been placed on Scottish local authorities. Indeed, we received from some local authorities detailed calculations that quantified the shortfall between what they received from the Executive and the cost of implementing the policy. The committee submitted to all 32 local authorities requests under the Freedom of Information (Scotland) Act 2002 for details of how much authorities received from the Executive and how much they spent on free personal care. We are persuaded that there is a significant problem in funding care.

A number of submissions made the point that the ceiling for free personal care has remained the same since the policy was introduced, which means in essence that the value of the free personal care allowance is declining year on year. The Executive does not appear to have a clear policy for calculating the ceiling. The committee wants that to be addressed.

Free personal care payments may be made only from the date on which the assessment of need was undertaken. There is no facility for backdating payment and the approach has caused concern that some local authorities delay assessments for budgetary reasons. That cannot be allowed to happen and the Executive should legislate to prevent it from happening.

The committee was also concerned by evidence that a number of local authorities are operating waiting lists for free personal care. We discovered during our inquiry that almost half Scotland's local authorities operate such lists. The legislation was not intended to operate in that way, so we have called on the Executive to rectify the situation.

The committee was also concerned about the guidance that the Executive issued in support of the legislation. It became apparent during our inquiry that there is a significant dispute between the Executive and local authorities about whether assistance with preparation of meals is an eligible cost. In general, the Executive considers that it is, but a number of local authorities and the Convention of Scottish Local Authorities think that it is not. That is cause for real concern, given that the Community Care and Health (Scotland) Bill was passed in 2002. It is imperative that the Executive and local authorities work together to ensure that there is a clear definition of the care that our elderly people are entitled to expect.

Alex Fergusson (Galloway and Upper Nithsdale) (Con): I have often raised that issue locally—it is of considerable concern to me. Does the Health Committee agree that local authorities' different approaches to implementing the guidance have created a postcode lottery in delivery of a welcome and valuable service?

Janis Hughes: Yes. The committee concluded that there are discrepancies in interpretation of the guidance. We raised the matter with the Executive and included it in our report—I will talk more about it. I hope that the minister will tell us what progress has been made in addressing the issue.

During our inquiry, two common misconceptions emerged about what free personal care will deliver. First, there is a misconception that under the 2002 act all care costs will be met by the state. Secondly, there is a belief that eligibility is universal and does not depend on assessment. The committee thinks that the Executive needs to issue clearer guidance on how the policy works.

The committee acknowledges the successes of free personal care, but we consider that measures should be taken to address the implementation problems that have arisen. First, we recommended that the Executive undertake a thorough review of the resources that local authorities—collectively and individually—require if they are adequately to finance free personal care. An increase in funding or more equitable distribution among local authorities might be required. We are pleased that such a review is under way and we look forward to hearing its conclusions.

The loopholes that, in effect, permit the use of mechanisms to ration free personal care should be closed through changes to the legislation, if necessary. The Executive has noted that suggestion and will consider it in its policy

evaluation. However, that is disappointing for the committee, so I would welcome further comments from the minister on that.

The Executive should enforce the guidance on the aspects of eligibility that local authorities claim remain ambiguous and it should ensure that services such as assistance with meal preparation—if they are part of assessed need—fall under the free personal care scheme. I am aware that the Executive has made many attempts to resolve the situation, but the committee remains concerned that, overall, it is still unresolved.

The Executive should also adopt a mechanism for determining the long-term level of financing for free personal care—it should decide, for example, whether to increase the financing in line with inflation or some other indicator. The Executive has noted that suggestion, but the committee hopes that it will be considered in the review. I ask the minister to elaborate on that today.

The Executive should also remove the financial incentive for local authorities to delay assessment, either by allowing claims for free personal care to be backdated from the point of eligibility rather than from assessment, or by introducing a mandatory deadline for assessments, which could perhaps be two weeks after application.

Free personal care can be effective only if it is sustainable in the long term, which is an issue that the Executive must address. The committee recommended that the Executive should model carefully the cost of free personal care in the medium term to ensure its sustainability and, in so doing, revalidate the current costs based on demand. As I said, we welcome the Executive's acceptance of that recommendation. Although clear financial obstacles to the extension of the policy exist, a logical and ethical argument can be made for extending free personal care to people under 65 who require care. We encourage the Executive actively to consider extension of the policy, in line with the commitment that was given when the legislation was passed.

Our inquiry focused on more than just free personal care. We believe that the Regulation of Care (Scotland) Act 2001 has achieved its primary purpose of creating, through the Scottish Commission for the Regulation of Care, a comprehensive and independent regulatory regime that has provided increased protection for elderly people and other groups who receive care services. Nonetheless, as with free personal care, we found that the care commission has encountered teething problems: its duplication of local authorities' work; poor co-operation between it and some councils; unnecessarily burdensome regulation in some areas; inflexible systems that do not allow innovative services to be developed easily; and the Executive's requirement for the commission's elderly care services, but not its child care services, to be self-financing, which risks distorting its activity.

The committee therefore made several recommendations to the Executive and the care commission. We recommended that agreements between local authorities and the commission should be mandatory and that the care commission's elderly services should be funded in the same way as child care services are funded. We are disappointed that the Executive's response to those suggestions was not positive, but we look forward to hearing from the minister whether the issues will be considered further. However, the committee welcomes the fact that the Executive has accepted our recommendation that the care commission's registration system should be simplified to avoid multiple registrations.

The committee welcomes the increase in the take-up of direct payments since 2002. The number of people who are in receipt of such payments has increased from 207 in 2001 to 1,438 in 2005. On that basis, the legislation has been a success. However, we would like the Executive to do more to promote the availability of direct payments, particularly as we continue to lag far behind England and Wales in take-up. The Executive broadly supports our view, so we encourage it to back up that support with action in the coming months.

It is often said that the quality of a civilisation is defined by how it cares for its elderly people. I believe that Scotland has a good story to tell in that regard. The committee believes that, despite some problems, free personal care has been a great success, but we call on the Executive to act to ensure that the policy continues to deliver for Scotland's elderly people for many years to come. I commend the report to Parliament.

I move,

That the Parliament notes the conclusions and recommendations contained in the Health Committee's 10th Report, 2006 (Session 2): *Care Inquiry* (SP Paper 594).

14:49

The Deputy Minister for Health and Community Care (Lewis Macdonald): I very much welcome this debate and the Health Committee's initiative in conducting the first major post-legislative review by a Scottish parliamentary committee of legislation of such size and scope. The committee's inquiry has highlighted that it is not enough for us in Parliament simply to pass legislation and then to regard it as a job done: the legislation is the start of the job, not its completion. That is why, as Janis Hughes mentioned, the Executive is also undertaking its own review of

implementation of the free personal care policy; indeed, it is the norm for the Executive to conduct a post-legislative review a number of years after the coming into force of new legislation. Such reviews not only check whether legislation is achieving its original purpose, but allow us to consider possible improvements, including improvements to implementation.

Mike Rumbles (West Aberdeenshire and Kincardine) (LD): Will the minister confirm whether that review will include consideration of uprating the allowance? The allowance was set four years ago, and the minister will know that it has not been uprated with inflation since then. Could he give a commitment to look at that, please?

Lewis Macdonald: I am certainly happy to confirm that we will look at that matter; indeed, we are already doing so in order to establish whether the figure that was set a number of years ago was the appropriate figure at that time and, on the basis of that finding, to ascertain whether change is required now. That is certainly a part of the review that we are undertaking. I will come to one or two related points in a moment.

As Janis Hughes said, the Health Committee's report covers three areas. I will start, as Mike Rumbles encouraged me to do, with free personal care. Many older people received care free of charge before the free personal care policy was introduced. For example, a person who required nursing care at home would receive that care without charge, and an older person who lived in a care home was not expected to pay for personal care or for nursing care if he or she could not afford to. An older person who received personal care at home, such as help with dressing or bathing, received it without charge if he or she could not afford to pay for the service.

Funding for those elements of care, amounting to more than £60 million, was made available to local authorities through grant-aided expenditure in 2001-02, the final year before the new legislation came into force. In response to the public comment that has been made about funding levels, it is important to recognise both that that funding has remained in place and that it has continued to increase year on year in line with the general increases in funding for older people's services. It represents approximately £90 million in the current financial year in addition to the money that has been labelled, under the line for free personal care, for pensioners who are relatively recent recipients of the service.

The Community Care and Health (Scotland) Act 2002 did not change the nature of the services that were already available to older people—it extended the free personal care that was previously available to poorer pensioners at home or in care homes to all those over the age of 65. Free personal and nursing care was the agreed outcome of that policy decision, and it had wide cross-party support.

Contrary to some fears at the time, the evidence—which has already been referred to from the committee's perspective by its deputy convener—is that the policy remains affordable. We have provided generous additional funds to reflect the additional pensioners who qualify for free personal care, which amount to about £162 million this year, to top up the pre-existing and continuing funding of about £90 million, to which I have already referred. That fully meets the bid from the Convention of Scottish Local Authorities in the 2004 spending review. In short, the policy is fully funded.

Mr Kenneth Macintosh (Eastwood) (Lab): Does the minister acknowledge the difficulties that are faced by authorities such as East Renfrewshire Council, where older people enjoy the benefits of a long and healthy life? Does he agree that people who live in East Renfrewshire should not be penalised for their longevity and that we should instead examine the formula for distribution among councils so that people in East Renfrewshire can enjoy the same benefits of this excellent policy as everyone else in the country?

Lewis Macdonald: The formula for distribution among local authorities is a matter in which local authorities themselves have an interest. We deal with them as partners in that regard.

I give way to Mr Swinney.

I am sorry—I was going to take an intervention that was not even being made. That is a generosity that I might not repeat. I see that it is Ms Robison who wishes to intervene.

Shona Robison (Dundee East) (SNP): Will the minister clarify the timescale for the review that the Executive is going to carry out? When will it be concluded?

Lewis Macdonald: The review is under way and we look to come to conclusions in the course of the current calendar year.

We do not ring fence or hypothecate the money that goes to local authorities for locally delivered services, whether free personal care, community care or older people services more generally. It is for councils to allocate the funds that they receive in the way that best meets local needs—provided, of course, that they meet their statutory obligations. However, if they decide not to spend all the money that GAE indicates is available for older people services and community care services, they must be able to justify such decisions.

Mr John Swinney (North Tayside) (SNP): Does the minister acknowledge that some local authorities are having to dip into wider resources for older people services, beyond what the Government has estimated as the financial commitment that is required to deliver free personal care? To reinforce the point that Mr Macintosh made, does not that suggest that there are parts of the country—such as East Renfrewshire, which Mr Macintosh represents, and Perthshire and Angus, which I represent—where the number of older people is disproportionately high, which places a greater financial demand on local authorities in delivering the policy? Is not it the case that the Government is not taking that into account adequately in its distribution?

Lewis Macdonald: We will be happy to discuss distribution issues with local government, through COSLA, in the usual way. On the adequacy of resources, it is worth noting that the funding that local authorities have for delivering these services is not confined to the £162 million that is labelled under the free personal care line this year; they will already have been funded to provide services to approximately one third of people who were in receipt of personal care prior to the passing of the act in 2002.

I am glad to hear from those who have spoken so far that the Health Committee agrees that the policy has been successful and I am glad that all parties still welcome it. Although there are implementation issues, which we will debate this afternoon, it is worth reiterating that some 50,000 people benefit from the policy, 40,000 of whom are living at home and receiving personal care without charge, and more than 9,000 of whom are receiving payments for costs in care homes.

We acknowledge that there are implementation issues, which we intend to address as part of the review. We intend to consider how we will be able to deliver long-term sustainability.

Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD) *rose—*

Mr David Davidson (North East Scotland) (Con) *rose—*

The Presiding Officer: I call Jamie Stone—sorry, it is David Davidson.

Mr Davidson: I thought that the minister looked at me. I beg your pardon. What is your guidance, Presiding Officer?

The Presiding Officer: You are up, so carry on.

Mr Davidson: Thank you. I am grateful.

The minister talked about implementation. At the end of the first year of the policy, four councils wrote to me to illustrate their schemes and the differences in understanding of the policy. The scheme is supposed to be national—that is what Parliament voted for in 2002. How will the minister and his colleagues solve the problem of there still being an understanding gap and variance throughout Scotland?

Lewis Macdonald: It sounds as if David Davidson has already delivered his speech. We are keen to ensure that local authorities understand and implement the policy consistently throughout Scotland. In reviewing the implementation of the policy, we are reviewing the way in which local authorities understand and carry out their obligations. That work will continue.

Mr Stone: When we are discussing this or any other element of local government expenditure, it is often hard for back benchers to understand the figures and get to the heart of the financial problem. Do the minister and his colleagues have back-up at Scottish Executive level to go into the figures to establish the truth? That is often the nub of the issue.

Lewis Macdonald: That reflects the question that Mr Rumbles asked about inflation proofing or changing the level of fees that are made available. The review will consider those issues. As a result of the Health Committee's inquiry, earlier this year I asked my officials to look at some of the issues in respect of numbers. When we make public the results of the review, we will make public a fuller understanding of the figures, including the funding figures.

The care commission has been mentioned. We are pleased to see its work to increase information sharing with other public agencies. We believe that the scrutiny review that is currently under way will build on that.

Janis Hughes raised an important point about costs. It remains our view that it is right that the costs of a regulatory system should be open and transparent. Fees for regulation are as legitimate a business cost as other costs but, as she said, we have chosen to subsidise costs where we have made a policy decision and there is a sound policy reason for doing so.

Christine Grahame (South of Scotland) (SNP): Does the minister share my concern that many of the costs are engendered by the care commission's being self financing? That concern was expressed to me many years ago by the social work services inspectorate. Will the minister consider the matter again, as the burden on small providers is onerous?

Lewis Macdonald: We believe that it is right that the costs of regulation should be open and transparent. That means that it is right that those who are regulated should be charged the cost of that regulation. I accept that there might be a case

for subsidy—we have followed that up in early years services—but it should be on the basis of an assessed and quantified regulatory cost. That is a better solution than not putting charges in place.

Janis Hughes also mentioned direct payments. The Executive accepts that more can be done to promote direct payments. That will require effective partnership working among local authorities, health boards, support organisations and users. It is important to stress that direct payments are not an all-or-nothing provision and that they can be combined with receipt of other services in other ways.

I am glad that we have the opportunity to debate these matters—detailed scrutiny of such important areas is constructive. I look forward to hearing the remainder of the debate and to responding later to other points that will be made.

15:02

Shona Robison (Dundee East) (SNP): We should remember that, despite the difficulties with implementation, the policy of free personal care has been widely welcomed and judged to be a success. As Janis Hughes said, it was supported by all parties in the chamber, although some parties came rather later to the table than others. If we are to keep that perception, we must deal with the problems that are outlined in the committee report. If we do not, the policy could wither on the vine as public support for it falls away.

The funding formula was established on a false premise: a snapshot of the requirements of each local authority at the time. The use of such a blunt instrument has led to some councils being strapped for cash, which has resulted in waiting lists for free personal care, while others have an underspend. That does not mean that councils can abdicate their responsibility to provide people with their entitlement to free personal care, but it explains how some of the problems have arisen.

The situation has been exacerbated by the fact that the legislation did not provide for inflation, which means that there is an ever-decreasing return for the money as costs increase over time. That must be addressed urgently. The situation has been further exacerbated by the clawback by the London Treasury of the £40 million for the attendance allowance, which should be in the pot of money that goes towards care in Scotland. Members on this side of the chamber will fight hard to return that money to Scotland.

The operation of waiting lists for assessment of care needs by about 75 per cent of councils speaks volumes and cannot be allowed to continue. It is right for the Social Work Inspection Agency to go in and ensure that councils are delivering on their responsibilities, but who will go in and ensure that the Executive is delivering on its responsibility to ensure that the policy is adequately funded and that the distribution of that funding is right?

Mike Rumbles: The Health Committee found that the Executive says that it is fully funding free personal care. The Executive negotiates with COSLA, which also says that the policy is fully funded, and it has not claimed an increase in the past four years. We found that councils are not getting the funding. Surely the issue is between COSLA, as the umbrella organisation, and councils.

Shona Robison: Frankly, the issue is that there is buck-passing between all levels of government. That has to end because vulnerable elderly people are caught in the middle, which is unacceptable.

The distribution of funding has led to some extreme policies in certain councils. Dundee City Council refuses to pay the first 90 days of free personal care entitlement, so people who live in Dundee are financially disadvantaged because of where they happen to live. How the Executive has allowed that situation to continue is beyond me.

A further problem is that the councils interpret the legislation in different ways. We had the debacle over meal preparation. The Executive brought out its new set of guidance, but it was as clear as mud to me. Again, the councils interpret the guidance in different ways, so the situation continues, with vulnerable elderly people caught in the middle.

What can we do to solve the problems? Well, there are some short-term problems and some longer term problems. In the short term, we have to sort out the cost inflation, and that has to happen quickly. We also have to sort out the waiting lists. Councils must be told that waiting lists are unacceptable and will not be tolerated. The loopholes have to be closed and the different interpretations of the guidance on meal preparation must be sorted out as a matter of urgency.

There are also some longer-term problems. We in the Scottish National Party believe that there is a role for people who are independent of Government to advise on the long-term sustainability of free personal care and to examine the wider issues around the policy. We have had discussions with Stewart Sutherland and we are pleased that he agrees that a review is required to ensure the long-term sustainability of the policy. He has agreed to advise us on framing the terms of reference for such a review. We are happy and pleased that he has agreed to do that, given his commitment to and expertise in the area.

The Health Committee's inquiry was not just about free personal care. I will touch on some of

the other matters that it considered, one of which is the regulation of care. The establishment of the care commission provided increased protection for elderly people and others who receive care services, but, again, there have been problems with implementation and some providers face increased regulation and duplication. That must be sorted out. Poor communication and co-operation between the care commission and councils are weaknesses, particularly when complaints and investigations arise. Only eight of the 32 councils have agreements with the care commission. Again, that is something for the Executive to resolve.

The unnecessary bureaucracy around multiple registrations is a burden—particularly in relation to costs and staffing—on some of the smaller providers. The self-financing of the care commission is also a problem. The National Assembly for Wales acknowledged such problems when it introduced a policy to ensure funding from the centre. Self-financing is a problem for two reasons. First, it distorts the relationship between the care commission and the providers of services because providers expect a return for the fees that they pay, yet the commission should focus on where the problem actually lies. We received evidence from the care commission that the funding arrangement distorts the process.

The second problem is the circulation of public money in the system. Councils pay for people to be placed in care homes, but some of that money will require to go from the care home to the care commission to cover fees and so on. Public money in the system will go through a bureaucratic chain and will be of diminishing value as it does so. Surely that is not a sensible way to proceed. We back the committee's call for the end of the requirement for the care commission to be self-financing.

There must be an improvement in the process for registering and investigating complaints, particularly when a complaint against a care home has been upheld. As a minimum, all the other residents in the home and the families should be made aware of the complaint and its outcome, although confidentiality should obviously be protected around certain issues.

Mr Stone *rose—*

The Deputy Presiding Officer (Trish Godman): The member is winding up.

Shona Robison: Finally, direct payments are a way of ensuring or improving people's independence. However, there is disturbing evidence that certain local authorities feel threatened by direct payments and are reluctant to ensure that people who receive care services are aware of the existence of direct payments. That reluctance must end. Direct payments are a threat to councils only if their services do not come up to scratch; if their services come up to scratch, there should be nothing to fear because people will want to use those services. I want the use of direct payments to be extended and the issue of individual budgets to be considered. We can ensure that people receive the services that they want only by giving them their independence.

15:11

Mrs Nanette Milne (North East Scotland) (Con): The Health Committee's inquiry into the implementation of the Community Care and Health (Scotland) Act 2002 and the Regulation of Care (Scotland) Act 2001 has been a major piece of work. The committee considered free personal care, the work of the care commission and the use of direct payments for care.

The introduction of free personal care for the elderly in 2003 has been one of the Parliament's most important achievements. Such care has made it possible for people to continue to live at home when they would previously have had to go into long-term residential care. The policy has provided greater security and dignity for many elderly people and support for their carers, and it has had a significant impact on delayed discharges from hospitals. However, the problems that the care inquiry has uncovered have significant implications for the sustainability of the policy, and they must be addressed by the Executive without delay.

The two major issues that are threatening to undermine the policy are the operation of waiting lists by three quarters of Scotland's local authorities and the charging for assistance with food preparation by nearly half of them. It is clear that there are problems with funding free personal care, with demand greatly outstripping the available resources in many instances. Aberdeen City Council, which is Lewis Macdonald's and my local council, is the lowest-funded council in Scotland per head of population. In the 2005-06 financial year, it received £6 million from the Scottish Executive to support free personal care, but the estimated expenditure of £12.1 million was more than double that figure. Moray Council received less than £2.5 million, but its estimated spend was £5.5 million. North Lanarkshire Council has spent nearly three times its allocation and South Lanarkshire Council has spent almost double its allocation. That is simply not sustainable; the result is the waiting lists in many council areas.

The Executive has said that councils have been adequately funded according to their predicted needs. The reality is that the funding that has been made available has been insufficient or its

distribution across councils has been inequitable. Where the fault lies does not matter to the many elderly people throughout Scotland who are awaiting assessment or the care package that they have been assessed as requiring. They are not interested in squabbles between councils and the Executive. Those people have a legal entitlement to a care package that is not being met.

Mr Stone: The member rightly referred to the undesirability of squabbles between the Executive and councils. Does she agree with what I said when I intervened in the minister's speech? Accurate information on the cash that is going in and coming out is crucial if members and ministers want to reach a fair and balanced judgment.

Mrs Milne: Nobody would disagree with that, but the fact is that people are waiting for their entitlement and are not getting it.

The coalition Executive has a legal responsibility to ensure provision when and where it is needed, not after people have languished on a waiting list. I trust that the review that is being undertaken in response to the Health Committee's report will be speedy and will result in a properly funded system that will remove the postcode lottery of care that is currently experienced by Scotland's elderly population. If the Executive can bail out Scottish Enterprise to the tune of £45 million, surely it can step in to ensure that councils can fulfil the free personal care obligation that is placed on them, especially as the knock-on effect of hospital beds being blocked by elderly people who are awaiting care packages is costing the health service dearly in relation to financial costs and waiting times.

Another concern for many people is the failure to index link funding for free personal care. The personal care allowance has remained static since its introduction, although inflation has moved on. Many self-funded residents in care homes have faced large increases in home charges while their personal care allowance has remained unchanged. Action needs to be taken if the policy is not to be undermined.

The other major problem that was exposed by the care inquiry is the confusion as to whether assistance with food preparation is a chargeable activity. The act is a part of free personal care and should not be charged for, but misleading guidance has resulted in nearly half of Scotland's councils charging clients for that assistance. There was an attempt to clarify matters in 2004, when councils were told that the guidance was inconsistent with the terms of the legislation, which must take precedence and be observed, but as recently as March, research by Alzheimer Scotland and Age Concern Scotland found that 13 local authorities were still charging for assistance with food preparation. That must stop, and in all cases in which charges have been wrongly levied in the past, a full refund should be made to the people concerned. That is happening in some, but by no means all, councils, which is unfair. The cost of refunds may well be high but, in fairness, they must be made. The Executive cannot confer a right with one hand and remove it with the other; it must sort that out without further delay.

The part of the inquiry that looked into the regulation of care identified problems of duplication, overlap and poor co-operation between councils and the care commission. It recommended that there should be a mandatory requirement for sharing information and for agreements over the inspection and monitoring of care services. The care commission should look to streamline its registration systems to reduce the number of multiple registrations for single services, and it should publicise more widely—for example, to care home residents—the outcomes of inquiries into complaints that have been upheld.

The Executive's requirement for the care commission to be self-funding has put an enormous burden on the care sector—particularly on smaller independent care homes, a number of which have faced closure as the escalating cost of fees for regulation has made them unviable. A strong feeling is emerging—which we share—that the care commission should not be funded by the elderly care services that it regulates. The cost of regulating young people's services is met from the public purse. I urge the Executive to review its policy on services for the elderly before more care facilities go to the wall.

Finally, the take-up of direct payments for care is patchy across Scotland and could be significantly higher. Some local authorities are more enthusiastic about the policy than others, and take-up is much higher where senior officials are committed to the policy. In others, it appears that officers are unwilling to put the control of services into the hands of service users and, therefore, do not promote the uptake of direct payments. The system gives much more choice and flexibility to users who wish to organise their own support measures, and the opportunity to use it must be made available by all local authorities.

The care inquiry has been thorough. It has shown the benefits that the legislation can bring to Scotland's elderly population, but it has exposed serious difficulties with the implementation of free personal care. It has shown where improvements could be made with regard to the operation and funding of the care commission, and it has highlighted the benefits of direct payments for service users and the need to increase their uptake. The Health Committee, its clerks and the many witnesses who gave evidence to the committee have worked extremely hard on the

inquiry. It is essential that, in the interests of Scotland's elderly people, the Executive takes appropriate action on its recommendations without delay.

15:19

Euan Robson (Roxburgh and Berwickshire) (LD): I welcome the opportunity to debate the report. I think it was the minister who said that it is the first major piece of post-legislative scrutiny in the Scottish Parliament, and it is all the more welcome for that.

The Health Committee has conducted a thorough and timely investigation into the introduction of free personal care in Scotland that also considered the care commission and direct payments. I can say that without being open to the charge of self-congratulation, as I was not a member of the committee during most of the investigation.

The report's conclusions and recommendations bear some amplification. The committee concluded that the policy is a success—I emphasise the word "success"—and that it has been widely welcomed. It is hard to separate out any of the eight reasons for that given in the summary, but if I was asked to do so, I would say that three are significant.

The first is that the policy has provided

"greater security and dignity to many elderly people".

That is of immense importance because it is the human dimension of the policy. I recognise Janis Hughes's eloquent points about the Joseph Rowntree Foundation's findings in this area.

Secondly, although not much has been mentioned about this today, the policy of free personal care has had an effect in reducing the number of delayed discharges, which has been a significant consideration for many members. The policy has assisted in ending delayed discharges in some areas and in markedly reducing their number in others. Thirdly, in the main, as the summary says, the policy has been introduced "swiftly and comprehensively", and it is important to remember that.

However, as members have mentioned, there are problems, most of which relate primarily to implementation. The committee's detailed evaluation has revealed six problems that are set out in detail in the report. The most significant have to be the waiting list phenomenon and the guidance on eligibility and funding.

I shall deal with the first of those. I appreciate that it can take a short while to carry out an assessment, and practical considerations must be taken into account, particularly in rural communities, but I sense—and experience suggests—that two factors might be significant where there are waiting lists. The first is the deployment of social work staff and the second is a misunderstanding of how many people might qualify, especially those in private accommodation.

Over time, there should be fewer excuses about the deployment of staff because the number of social workers is rising considerably across Scotland. However, census data and the experience of the past three to four years should provide local authorities with mechanisms to anticipate the volume of applications from people in private accommodation.

Mr Swinney: Is not the natural extension of Mr Robson's argument the fact that the Government must also be mindful of those census projections if it is to guarantee that local authorities do not end up carrying a financial burden that they have no hope of resolving because the Government, which funds the overwhelming majority of activities, is not giving them enough money?

Euan Robson: The member anticipates what I am about to say in a minute or two, but he makes a valid point. I will return to the funding difficulties in a moment.

I turn now to differing interpretations of the guidance, especially around the preparation of meals. It is clear that there is ambiguity, which should be removed. As far as I can tell, there are three general interpretations: that meals will be prepared; that meals will not be prepared; and that some meals will be prepared. Frankly, I cannot understand how that situation developed, and it is baffling that it continues. I appreciate that the minister has had discussions with COSLA and I have read his conclusions. However, I would be grateful for more information from him in his closing speech. We must get some clarity on the issue.

Shona Robison: Does the member agree that the Executive has to take some responsibility for the situation, given the fact that it has issued three different sets of guidance? Perhaps we would not have this confusion if it had got the guidance right from the start.

Euan Robson: I agree. Equally, local authorities should have come to a common interpretation of the guidance from the start; they might have done so. Which comes first is clearly a matter for debate.

I welcome the general review that the Executive is undertaking, but I urge the minister to ensure that it looks closely at local authorities that have particular funding difficulties, especially in the light of known demographic trends. I find it hard to understand much of the financial information that

local authorities supplied in response to freedom of information requests—frankly, I cannot make head or tail of the information from my local authority—but I believe that, as Mr Swinney mentioned earlier, some local authorities face particularly acute demographic trends. For example, in the community of Coldstream in my constituency, it is reckoned that the proportion of the population over the age of 65 will increase from its current level of 25 per cent to well over 30 per cent. It is not clear that the funding formula embraces such situations. If the policy is to be sustainable, some account must be taken of those particular circumstances.

I find COSLA's conclusions on funding hard to understand. If COSLA is telling the Executive that enough money has been made available for the policy but local authority members are telling COSLA that that is not the case, it is clear that we have some dissonance. That ought to be ironed out.

On the funding of the care commission, although I accept that the issues with multiple applications and duplication need to be sorted out, I do not believe that the case for self-financing has been made. Such a requirement results in significant burdens being placed on service providers, especially on smaller providers. An important point is that, if the Executive continues to bear some of the care commission's costs, it will have an incentive to ensure that the commission is not overbureaucratic or overstaffed and does not duplicate provision or require multiple applications. A balance needs to be struck. I am interested to know whether the minister has come to any conclusions on that issue, but I believe that self-financing is a policy that should probably be abandoned in the months ahead.

In conclusion, the committee has produced an excellent report that could provide a good template for the post-legislative scrutiny that I hope other committees will carry out. I support the committee's recommendations, which were agreed to unanimously. In the months ahead, as we scrutinise how the Executive makes the changes that are suggested in the report, I hope that we will see the continuing success of this policy.

The Deputy Presiding Officer: We now move to back-bench speeches. I can give members a tight six minutes.

15:28

Rob Gibson (Highlands and Islands) (SNP): The free personal care services that are available are a massive step forward for our older people. Everyone is agreed that we want to ensure that Scotland sets a benchmark for the way in which we treat our old people.

However, the way in which free personal care has been rolled out across the country is a cause for considerable concern. I found it interesting to note the remarks that were made in the committee's written evidence, especially from organisations in my area. For example, the submission from the Highland community care partnership states that the definition of what is included as personal care and therefore within the policy has not caused too many problems in Highland. However, it goes on to say that the partnership was conscious that the definition has caused some problems across the country. The submission also states:

"The Highland Council argued for national eligibility criteria on the basis that this would remove the risk of a post code lottery. We consider the introduction of such criteria continues to have merit."

Like us, the Highland community care partnership believes that the eligibility criteria are not clear. That point has been made by speaker after speaker this afternoon.

Another issue concerns the services that are available. In response to the committee's FOI request about the funding for free personal care that Highland had received from the Government and how much it had been required to spend on those services in 2005-06, the council said that it had received £6.033 million but had had to spend £7.816 million—or about a third more. That is a large amount of money out of a small council's budget. Although in June the council was unable to answer questions about how long it took to assess people or to provide the care package, I was pleased to read in *The Herald* today that assessments are initiated within an average of five days and that providing the package takes no time at all.

However, I am concerned about the accuracy not only of those figures—which, after all, were put together only from June onwards—but of the figures in other parts of the country. I hope that with the Government's proposed review a good deal more effort is made to ensure that the figures are very accurate.

The budget constraints under which, for example, the social work department in the Highland Council is working are cutting away at its ability to deliver some of these services. In 2005-06, it had to make savings of £750,000 in the elderly care element of its budget, while next year it will have to make £2.6 million-worth of cuts in the overall social work budget. Those constraints are being imposed when the difficulties of delivering many of these services to small and scattered communities and in unusual conditions are becoming clear. In this debate, we must make it clear that, if the provision of services is not to become a postcode lottery, the assessment of actual need must be more focused.

At the heart of the debate is how older people in different circumstances are cared for. Highland is an unusual case, as 23 per cent of the beds available for elderly care are under the local authority's control. That said, I should note that the Highland senior citizens network is concerned to find out whether public sector beds will be available for various purposes. After all, if we are going to get rid of bed-blocking, we will also need places for and means of assessing older people. However, certain private providers such as the Church of Scotland and the Salvation Army might well pull out of delivering such services. That concern has led to the call for beds provided by the council to remain available, even though they are more expensive than beds provided by the private sector.

The point is that we need a proper assessment of the money required to deliver services. Indeed, in the past two weeks, considerable concern has been expressed about certain developments in Orkney. As one old man put it, people should not have to be deported from their homeland in order to find care. People in Orkney are asking for new care homes for the elderly to be built, presumably in the public sector.

We must recognise that the Scottish index of multiple deprivation does not work in our area. Given that there is more than one geography of poverty in Scotland, no single index will do the trick for both urban and rural areas. Will the Executive continue with an area-based assessment of deprivation or will it take the kind of thematic approach that is much more suited to small communities and sparsely-populated areas? People in smaller communities such as Assynt, Tain and Fort William need a policy that provides them with the best service.

There is still much to do. However, we have made a start. Now the Executive must assure people in the Highlands that their elderly will continue to be looked after in their own communities.

15:34

Helen Eadie (Dunfermline East) (Lab): I begin by apologising for arriving late, Presiding Officer. I was at a meeting of the Fife Chamber of Commerce and Enterprise, where momentum is gathering for the campaign for a new road bridge over the River Forth.

I agree with all the comments that have been made by colleagues who have welcomed the report. When we look back on the Health Committee's work on the report and see the sheer size of the challenge that has been met to a large degree by the Scottish Executive, we see figures showing that 69 per cent more people are now receiving free personal care at home than were receiving such care in July 2002, and that there are now 50,000 people receiving free personal care. That is an almighty achievement. I am glad to have been involved in the committee's work in reaching its views and recommendations, because the process has flagged up not only the achievements but the shortcomings that need to be addressed. The minister acknowledged that in his response following the publication of the report, when he said clearly that we have achieved a lot but that there is still a whole lot more to do.

There is one specific area that I would like to say a whole lot more about—it is something that other members have mentioned today. Direct payments are important and the committee welcomed the increase in the take-up of direct payments following the passing of the Community Care and Health (Scotland) Act 2002. That move has seen the numbers in receipt of payments increase from 207 in 2001 to 1,438 in 2005, and the value of payments increase from £2.1 million to £13.7 million. That is a great measure of success. However—there always has to be a "however"—those increases are from a low base, and direct payments in Scotland are still running at half the level of payments in England and Wales. The committee was concerned about that.

There is also a wide variation in the take-up of direct payments across Scottish local authority areas, as other members have said. The committee heard in evidence that Edinburgh had the highest expenditure in direct payments, although Fife had the highest number of claimants. It was interesting to observe that contrast. There is significant scope for those local authorities that still exhibit low take-up rates to engage at the level of those with the higher take-up rates, which is something to which our colleagues from northern areas such as Grampian have alluded. Some local authorities need to address that issue.

The committee also supported the concept of direct payments as a means of increasing the autonomy of those who receive them, as well as enabling the care package to be tailored more closely to their needs. Although direct payments are not a solution for everyone, they have the potential to improve the care available to many, and the committee wanted to encourage an increase in their take-up.

The committee also acknowledged that the choice of direct payments brings with it risks and responsibilities for individuals, which must be carefully weighed in advance by those concerned. A balance may need to be struck between flexibility and standards of service. I have direct experience, as the MSP representing Ballingry, of cases in which the individuals concerned had reservations about the responsibilities that direct

payments gave them as employers. The committee was mindful of the experience of such claimants of direct payments.

The increasing take-up of direct payments represents a challenge to local authorities and to traditional methods of care provision. We heard from those who gave evidence to the committee about the concerns of those who were involved in that process. The local authorities and the committee, working together, must identify ways in which we can tackle that issue. The committee welcomes the increased take-up and believes that it should not represent a threat to public sector provision. Janis Hughes helped us to clarify with Unison and other trade unions that they had no on-going concerns about that. It is important for local authorities to fulfil their minimum statutory duties to protect people's safety.

The committee recommends that there should be more proactive promotion of the availability of direct payments by the Executive and the local authorities. It also recommends that the Executive should commit itself to continuing to encourage the take-up of direct payments, particularly in areas that appear to have lagged behind. The research that the committee sponsored identified a number of factors that led to success in the promotion of the take-up of direct payments within local authorities. I applaud the individuals and organisations throughout Scotland who have been involved in this vital work.

15:40

Mike Rumbles (West Aberdeenshire and Kincardine) (LD): I will first say how much I enjoyed my time on the Health Committee. I was pleased to be a member during the evidence-taking part of the inquiry and I was disappointed not to be able to see the whole inquiry through.

The committee's report shows how important it is for committees to do their job properly in examining legislation that we have previously passed. Under Roseanna Cunningham's convenership, the Health Committee has made an excellent job of the inquiry.

Several members have said that we found that free personal and nursing care for the elderly has been a great success and has been widely welcomed but that there are problems with implementation. That is what we have focused on so far.

The problems are, as ever, focused on money. When we passed the legislation four years ago, we gave all the elderly folk who were in need of it a clear legal entitlement to free personal care. However, they first had to be assessed by their local authority to establish what their needs were. I am afraid that that is where many of our local authorities have let people down. They have instigated waiting lists for assessment and a further waiting list for people in need to get their legal entitlement to funding.

The committee has discovered that many local authorities have not received enough funds to implement the policy. However, when we took evidence from the Scottish Executive and COSLA, they both said that they were agreed that the package was fully funded. We therefore have a problem. My local authority, Aberdeenshire, stated in its evidence to the committee that its allocation from the Executive last year was £7.2 million but that it had spent £8.76 million. That is a shortfall of more than £1.5 million.

Councils throughout Scotland are either making up the difference or failing to implement the 2002 act correctly. That is an invidious position to be in, but I am convinced that any council that fails to provide this entitlement to those who have been assessed as being in need are failing in not only their moral but their legal duty.

How do we sort out this financial ping-pong? COSLA and the Executive say that there is enough funding, but many of our councils are clear that they do not have the full funding. The process of negotiating funding is between the Scottish Executive and COSLA; it is not done by the individual 32 councils. If COSLA tells us that there is enough funding, the question is surely why our councils have not taken the matter up with COSLA, which is their umbrella organisation.

I understand that the Scottish Executive provided local authorities with £153 million for the policy in 2005. The Deputy Minister for Health and Community Care confirmed this afternoon that the Executive increased the figure to £162 million this year and will increase it to £169 million next year. I understand that there have been no further funding bids from COSLA to the Scottish Executive since 2002—four years ago.

I would have hoped that, rather than fail to implement free personal care for those in need of it, our councils would have been proactive with COSLA. Why has it taken a parliamentary committee to highlight the failings in the implementation of the policy? It is a sad state of affairs when, on the one hand, councils blame the Executive for underfunding and, on the other, the Executive points to its agreement with COSLA and says that the policy is funded. That is what has happened. In the middle of this there are individuals in need who are not receiving the funds to which they are legally entitled. Why are those councils failing to get their umbrella body to take action? That is the procedure that should be followed.

I will now address a funding issue that lies at the door of the Scottish Executive. I refer, of course, to

the uprating of the level of payment for free personal and nursing care, on which I intervened on the minister during his opening speech. Members will know that those in need who stay in residential care receive £145 for personal care and £65 for nursing care. That £210 a week has not been uprated to take account of inflation since the policy was first implemented. I calculate that if that amount was being uprated for inflation, it would reach something in the order of £250 a week by next year. However, I was pleased to hear from the minister earlier the good news that he is examining the level of payment. I am also pleased to hear that that review will be completed in this calendar year. From my calculation, the end of the year is less than three months away, so by Christmas and new year we should have the Executive's conclusions about what it will do about the level of payment. I hope that those in receipt of the payment can look forward to benefiting from a long overdue uprating.

15:45

Eleanor Scott (Highlands and Islands) (Green): I am not a member of the Health Committee, so I was interested to read its care inquiry report, which impressed me. The process by which the committee undertook its inquiry seems to have been exemplary and it seems to have been well received by everybody who participated in it. I echo Euan Robson in hoping that other parliamentary committees can find the space to carry out similar post-legislative scrutiny, which is a vital part of the Parliament's work.

The result of the inquiry is a weighty document. I would like to speak about many parts of it, but I will not have time to do so. For example, there is the issue of extending direct payments to those aged under 45 and in need of care, which is an issue dear to my heart and a move that I would support. However, I do not have time to argue that point.

I agree with the committee's conclusion that the policy of free personal care for those over 65 has been generally successful. I also agree with the recommendation that the policy should continue to be pursued and developed. The report notes the benefits for the NHS of the policy and refers to reductions in delayed discharges. The report also notes the view of the Royal College of Physicians of Edinburgh that the policy has made the closure of long-stay beds easier.

Other witnesses who gave evidence to the committee noted how free personal care allowed more people to be supported and cared for in their own homes. I welcome that, but I sound a note of caution. It is right and humane to support people in their own homes for as long as possible, but for many of our increasingly elderly population, particularly our frail elderly, there may well come a time when residential care is required. Further, before that stage is reached, many people may need respite care in order to relieve the stress on family members who, notwithstanding the provision of free personal care, will generally do much if not the bulk of the day-to-day caring.

We have a history in this country of taking our carers for granted and not considering their needs. In our enthusiasm for keeping people at home, we must not lose sight of those needs. A policy of closing residential facilities—we have seen that to an extent in the Highlands—can leave carers with no possible respite. An example that I have given before in the chamber is the facility in Assynt, near Lochinver, which is very small, having only four beds, and therefore very expensive to run.

There are no economies of scale in our remote and rural areas. If we are to have a facility for people to be looked after in their own communities, which Rob Gibson mentioned, rural residential facilities must be kept open, even if that costs more than it would to keep similar urban facilities open.

Mr Stone: I would associate myself with anything that Eleanor Scott and Rob Gibson have said about the Assynt situation. However, does Eleanor Scott agree that the so-called high cost of the Assynt facility may not be quite as high as MSPs have been told?

Eleanor Scott: I take Mr Stone's point, which he also made in an earlier intervention, about how robust the figures are on which decisions have been taken. I share his concern that sometimes the figures are not robust.

Rob Gibson also referred to anecdotal evidence about people who need personal care but not nursing care being discharged from hospital into residential care facilities many miles away from their communities because there is no local facility. Frankly, I think that that is cruel.

It is clear that local authorities are driven by financial considerations when they seek to close care homes. I fully agree with the committee's view in paragraph 24 of its report that by making discharge from hospital easier, free personal care will have made significant savings for the NHS

"which should perhaps be costed."

I would remove the word "perhaps".

I do not want to start a bidding war between the NHS and local authorities for that money, but there is no doubt that a saving has been made in one service that has not released any extra money for another. We support the policy of free personal care, but it must be adequately funded.

I have no disagreement with the committee's recommendation that the care commission should

continue to develop as the primary agency for the regulation of care services for the elderly, but I share some of its concerns about the organisation's funding. When regulatory bodies are set up to be self-funding, there will always be problems. I have philosophical and practical objections to that arrangement. Such problems are evident in the work of the Scottish Environment Protection Agency, which charges the people who deal with our waste in various ways; although the people who clear up our waste are penalised, those who generate it are not. Similarly, we are in danger of penalising those who care for our elderly people. As other members have said, it is inevitable that distortions will arise when the people who are being regulated pay for the privilege.

In common with other members from rural areas, I have been contacted by small groups that deliver care in remote and rural settings, which find that the care commission's registration fee takes a big bite out of their limited budgets. The issue needs to be addressed. The present set-up is philosophically wrong and it poses practical difficulties, especially in remote and rural areas.

The report notes that providers face problems in developing innovative forms of care, so it appears that, as it is set up, the care commission is a bit inflexible. I am no more convinced than the committee was that the distinction between when the care commission is not self-funding, which is the case when it regulates early years services, and when it is self-funding, which is the case when it regulates elderly services, makes any sort of sense, either philosophically or practically.

If one big change is made as a result of the committee's report, I would like it to be in the way in which the care commission is financed. If providers were relieved of the burden of the registration fee and the registration process was made more small group-friendly, that would make a huge difference, especially to the crucial small providers in our remote and rural areas.

15:51

Irene Oldfather (Cunninghame South) (Lab): I begin by congratulating the Health Committee on an extremely important piece of work. As a founder member of the Health and Community Care Committee, which took the evidence that led to the recommendations that were made in the Parliament's first report on community care—which, of course, were influenced by Professor Stewart Sutherland—I found the Health Committee's report to be a useful exercise in benchmarking progress.

A number of members have spoken about the relationship between COSLA and the Executive, but I want to approach the issue from a service user or client perspective. A great deal of progress has been made in enabling our elderly people to live with dignity in retirement and in establishing standards throughout Scotland. On free personal care and the regulation of care, the report highlights that there is a great deal of good in the present system. There is no doubt that many elderly people now benefit from living in care homes that provide a high standard of dignified care and a comfortable lifestyle for their residents. As members such as Janis Hughes mentioned, there are also many who benefit from free personal care in their own homes.

Today I will speak about areas in which improvements need to be made. In particular, I want to reflect on how we can use the policy to empower our elderly citizens to ensure that they get the service that is paid for for them and that they know what to expect from the system. Sometimes I worry about the use of the term "free personal care", because I am not sure that all elderly people understand that it bestows certain rights on the people who have been assessed as requiring it. There should be a guarantee of entitlement. Too many elderly people do not complain because they do not understand what they are entitled to.

In spite of the money that is put into the provision of free personal care in the home setting, too often elderly people are being short-changed. Many are assessed as requiring 30 minutes of care several times a day, to ensure that they have cooked food and are assisted with washing and dressing. Regrettably, because the agencies that deliver the service are overburdening care staff, many old people end up getting only 15 or 20 minutes because the carer has to go to the next client. Superman himself would find it difficult to keep up with the agencies' schedules. The agencies sometimes ask carers to do the impossible and it is the clients who lose out. In effect, we are paying for that. Who will take responsibility for that situation?

We must give old people and their families the information that allows them to know what to expect. The carers do not want to complain because they are afraid of losing their jobs and the old people do not want to complain because they are afraid of losing their care. Elderly people should know their rights. If they are assessed as requiring 30 minutes, the carer should be present for 30 minutes and the agencies should ensure that that happens.

The committee raised the issue of resourcing free personal care for people under the age of 65 and it acknowledged the associated costs. However, any members who have ever come across a 52-year-old with dementia—as I have as

convener of a cross-party group considering Alzheimer's—will know the worry that the sufferer and their family feel about the nursing home care fees looming on the horizon. Such people receive no help in affording those fees because no finance is available. As ministers' work develops, I hope that such issues can be considered.

I turn now to the regulation of care in residential homes and nursing homes. I have lodged numerous questions over the past few weeks on what I call DNHH—dignity, nutrition, hygiene and hydration. I am grateful to the minister for the detailed answers that he has given. All the things that we have worked hard to promote for young people—through, for example, the hungry for success initiative—are equally important for elderly people. The minister's replies illustrate that some commendable work is going on.

I have in my hand a document entitled "Infection Control in Adult Care Homes: Final Standards", and some recommendations on nutrition with professional advice on how those recommendations should be put in place in care homes for the elderly. Unfortunately, nobody knows about that work. If we read a care commission report, it does not tell us a great deal about such issues. Too often, care commission reports give the impression of being a little sanitised. That should not be the case; the highest standards should be expected. Information must be made available so that families and service users can be empowered to choose providers who are giving their best. We have to create a climate in which anything less than that is unacceptable.

I was shocked by the instances given in the committee's evidence of the care commission upholding complaints but failing to publicise that fact, expecting the service providers to do so. That system is not going to work. It is unacceptable; it renders the complaints system useless and it sends out the wrong message to service users.

I had a number of other points to make, but I will not have time. I will end by saying that this debate and the committee's report have given us an opportunity to say that we expect the best for our elderly people. Today should not be the end of the matter; it should be simply the beginning.

I would like there to be a charter of rights—a publicised leaflet for elderly people, laying out what they and their families should expect. Let us tell them today that we will not fail them in our duty. I commend the committee's report.

15:58

Christine Grahame (South of Scotland) (SNP): Many of my points have already been made by others so I will try not to repeat them.

The Health Committee elicited responses from local authorities on funding, which make interesting reading. Scottish Borders Council says that the funding that it received for free personal care was £3.5 million but the amount required was £7 million. That is an enormous difference and it must be impacting on the 28-day waiting list. However, the situation in the Borders is not the worst. I think that Midlothian Council receives less than £2 million for free personal care but is looking for more than £5 million. The financing has to be addressed.

A party colleague has already said that the £40 million that was clawed back by the Treasury should of course have been allocated to this Parliament. The Parliament will hardly be inspired to implement policies that save the Treasury money if the Parliament then finds that it is not entitled to reapply the savings to those very policies. If we could reapply those savings, we might not have the funding gap.

On the issue of guidance on the preparation of food, I remember in 1999 being rather naive, but bold, and meeting Sir Stewart Sutherland after I had read his report and introduced my member's bill—which was the first time the Parliament had considered free personal care. Sir Stewart made it plain that free personal care included assistance with the preparation of food. The matter is as plain as a pikestaff and should be made clear in the guidance, as Help the Aged in Scotland says. There should be no room for creative interpretation by local authorities.

I was interested—that is an understatement—to hear that more than half the local authorities have waiting lists for assessment and I am concerned that some individuals who have been assessed might end up back on the list, waiting to be reassessed. In a case that was brought to my attention recently by geriatricians in the Borders, an elderly person had been assessed and was ready for discharge from hospital. The buck passed to social work services and the housing association, which had to consider the person's housing needs and provide aids and adaptations. However, there was a delay in finding the funding for the adaptations, during which time the elderly person remained consigned to a hospital bed. Eventually the person's condition deteriorated and they had to be reassessed. There might be a hidden queue of people who are on the list for a second time because their condition has got worse while they waited in hospital.

People can easily become physically and psychologically debilitated if they feel that they have nowhere to go. That is why we should have retained cottage hospitals—I slip that comment in for the minister. A person who had been assessed could have gone to a cottage hospital in the

community—in Coldstream or Jedburgh, for example—where they belonged and could recover their confidence before moving back into their home. It is plain daft to close down cottage hospitals; they are a proper part of the system.

I mentioned the conflict between health boards, local authorities and housing associations. We all understand that such organisations want to protect their funding. However, as a result, people are left in hospital and cannot be supplied with the aids and adaptations that they need. The housing association cannot get aids and adaptations from the social work department and we go round and round, recycling public money—as Shona Robison said—and paying lots of pen pushers. Funding needs to be streamlined.

I understand that there is also a waiting list for the production of aids and adaptations. I know of a person who is stuck in hospital because the special bed that they need at home cannot be obtained.

The care commission's role bears examination. As I said, the commission should not be self-financing. It was brought to my attention when I was convener of the Health Committee that inspectors were most unhappy about using care home fees to fund the system. That is overwhelmingly the view among local authorities, too.

Irene Oldfather, who has left the chamber, made an important point about how people access care commission reports. The system seems shady; people have to dig around to find a report. Reports should be much more easily available.

I applaud the use of direct payments. When direct payments were pioneered years ago in the Borders, users were pleased with them. They felt more independent; they had a stake and instead of being told who should look after them and what should be done for them they were making such decisions for themselves. However, I add a note of caution. Direct payments should be encouraged, but some people do not want them, as disabled people have told me. We should bear in mind that some people want assistance.

16:03

Dave Petrie (Highlands and Islands) (Con): There is no question but that the Community Care and Health (Scotland) Act 2002 was most welcome, but let us not beat about the bush: the implementation of free personal care has been a joke, but not many elderly people are laughing.

In a typical case in Argyll and Bute, an applicant waits months for assessment and months for a decision, only for the council to plead poverty and offer them a cheaper alternative such as respite care—and that happens to people who are more than 90 years old.

I do not blame staff; I blame the system. The statistics demonstrate that the system is not working and must be revisited. Something drastic must be done to improve it and retain public confidence in it. Although the 2002 act has benefited many elderly Scots, many more elderly people are left vulnerable and unprotected by a system that is working against and not for them. Elderly people do not deserve to be kept in limbo while we pontificate about what to do next.

I am a Conservative, so no member will be surprised to hear that I have a natural aversion to excessive red tape and bureaucracy. Nor will members be surprised to hear that a Lab-Lib Dem policy on free personal care is riddled with red tape and bureaucracy.

The amount of communication between the care commission and local authorities is unacceptably low. It is disappointing that only eight of the 32 local authorities have an agreement with the care commission. In general, the registration process is too restrictive—particularly the need for multiple registrations for single services—and plants a brick wall in the way of progress, which does nothing to provide a joined-up system that works for the user.

Since the implementation of free personal care, the policy has been fraught with confusion among the various councils that are involved in supplying it. Loopholes have emerged that enable councils to operate outside the aims of the legislation and, in effect, ration the provision of free personal care, which is unacceptable. Some councils have included food preparation while others have not. Among the councils that have included it, the circumstances of its inclusion have differed. That is disappointing, as food preparation was included in the 2002 act, but the guidance that the Executive gave to councils did not make that clear. That almighty blunder demonstrates serious Executive incompetence, as a result of which the elderly have suffered. Councils must now pay back substantial charges that should never have been levied. The wasted additional cost in doing so benefits no one.

A lot remains to be done on direct payments. Although the take-up has increased, the level remains below that in England and Wales. I refer to a case that I am pursuing for a constituent about the care of their elderly mother. Incredibly, the authorities advised the family against applying for direct payments and, consequently, the mother ended up in a care home against the family's wishes. In the generally confused and inequitable situation, it is no wonder that many families and individuals throughout Scotland are experiencing unnecessary suffering.

Of all the factors that hold back the implementation of free personal care, supply and demand is paramount. The policy aims to provide free care to a number of people, but we are working with a limited number of available care home places. Consequently, more than half of councils have people who are on waiting lists for places in residential homes. When an elderly person needs personal care, it is time critical. They cannot wait; they must be dealt with urgently.

The Executive policy under which council care homes are paid more than independent homes for providing exactly the same service has resulted in many private care homes being removed from the sector. To be precise, 107 such homes have been removed since March 2000. If we want to provide a system of personal care for the elderly, surely an increase in the residential care home base must be the starting point? The omission of such an increase will result only in continuing waiting lists and a failure to provide an acceptable level of service.

The funding of the policy is clearly inadequate, given what it aims to achieve. The vast majority of councils have a huge gap between what they spend and what the Executive gives them to implement the policy, which is sometimes as little as half of what is needed. There also appears to be a serious lack of recognition of the funding that is required to address rural sparsity.

I am desperately concerned about the current care situation for the elderly in Scotland. We all have elderly family, friends and neighbours, and we will all be elderly one day—some of us already are. The Executive needs to ensure that its policy is solid and fully workable but, currently, it is not. We all agree that free personal care is a wonderful idea and a worthy cause—no member would disagree with that—but it is severely underfunded; it has not been fully explained to those who implement it; and it is hampered by loose ends and bad regulation. Further, sufficient resources have not been provided to deal with the demand.

I call on the Executive to tackle those issues because, until it does so, they will continue to hamper the care and support of the most vulnerable in our society. We must ask whether the Executive is committed to the policy. If so, I implore it to show us by treating those most serious concerns with the utmost urgency.

16:09

Dr Jean Turner (Strathkelvin and Bearsden) (Ind): The Community Care and Health (Scotland) Act 2002 is commendable legislation. It is also commendable that it should be subject to post-legislative scrutiny. It should be accepted that the policy is a work in progress, given that it is about providing care for the elderly and given all the difficulties that have been identified.

The Health Committee was in agreement all the way through the inquiry. It was great to go out into the community and get everybody connected with care for the elderly together, in Perth. I was part of the group dealing with carers. I am very much aware that carers are the most essential people for keeping the NHS going, as Eleanor Scott said. If carers are not looked after, they can become sick, which costs us more money.

We found out in the course of our evidence taking—and I know from my own experience—that no single area within the health service stands alone: every other area has to be working in order for it to work. We must realise that the new legislation has changed some things. There has also been a lot of change in the health service, and a lot of beds that were available in the past are no longer available.

In the early 1990s, many homes for the elderly and a lot of sheltered housing appeared. There was a rash of such homes, which grew up like mushrooms all over the place. It was hard to see how they would be sustainable. Some of them are closing, largely because, it has been said, the care commission has to charge for its work, whereas children's services are not charged for. I note the multiple registration that applies to Marie Curie Cancer Care's palliative care services. Marie Curie has to contend with more than a double whammy. Although its services do more or less the same thing, it still has to pay more than once.

When I was in practice, I could never understand why it took so long for people to be assessed, but I can see why there are waiting lists when people want to avoid spending money. Social workers are sometimes in short supply and are not always trained in assessment. People who present for assessment have usually been visited by district nurses, health visitors, doctors and geriatricians. When we reach the point of thinking that somebody needs to go into care, the decision will often have already been reached.

This business about the preparation of food is just ridiculous. Of course food preparation is part of personal care. If people are not looked after—if they are not fed and watered—they will become sicker and frailer and will die a slow death, taking up a bed that they would not have taken up if they had been properly looked after in the community by the primary care services, which I have always believed in—as long as lots of money is put into them. People can be kept fit and healthy in their own homes. It need not be a matter of looking after an invalid.

In the next few days, I am going to a friend's 100th birthday. She looked after herself, but she

has moved out of her home, which was a big house, and into sheltered accommodation. It has not been an easy road, and reaching her 100th birthday will be a triumph. She has had difficulties with home help services and with the change from old-fashioned meals on wheels. Now, frozen food is supplied. Not everybody with eyesight difficulties is capable of taking things from the freezer and putting them into the microwave.

We must consider how we assess people. Why do we do the job all over again when the primary care people have concluded that a person needs care?

We must be careful about the connection with direct payments. When we gathered evidence in the Highlands, we heard that quite a lot of people were taking up direct payments. There was encouragement for people to stay in the community. I got the impression that that was viewed as the cheapest and best way to do things. Somebody who ran a home said that, when people went into a home, they tended to be in it for about only four months before they died. That could be putting a strain on keeping homes available for people to go into for the last few months of their lives.

It is all about quality of care and taking the worry out of the situation. People used to worry about whether they had the money for their burial, but now they worry about whether they have the money for their care. Given how long it takes for someone on a waiting list to be assessed, which often means that they have to go into a home and their family has to carry the cash burden, there should be backdated payments.

I would like the Executive to examine top-up charges, which can often be a cover for the lack of finance from local authorities. The Executive has to consider the distribution formula for local authorities and why there is such a difference throughout the country.

16:15

Kate Maclean (Dundee West) (Lab): Like other members of the Health Committee, I think that the post-legislative scrutiny was a useful exercise, and the way in which it was structured meant that it was thorough. We had an event at the start to set the remit, then went on visits to speak to service users and take lots of evidence.

I am probably in a minority of one, because I was not a great fan of the free personal care policy, as I did not think that it addressed the problem of pensioner poverty—in fact, I still do not think that it does that. However, during the course of the inquiry, it became obvious to me that the policy is possibly one of the most popular policies that the Scottish Parliament has come up with. It is incumbent on the Scottish Executive to ensure that the spirit of the legislation is adhered to and that it is applied consistently throughout the country.

Given that I am speaking at the end of the debate, I will try not to reiterate what others have said, and instead raise a few issues that have not been debated to death yet. There does not seem to be any logic to the requirement for the care commission to be self-financing. On 28 March, I questioned the minister on that issue when he appeared before the Health Committee, and he did not give a robust response. I hope that he will address the point in his summing up, given that quite a few members have raised it.

At that committee meeting, the minister said that fees needed to be paid in the elderly services sector but not in the early years sector, to help stimulate the market in child care. I cannot understand why the Executive would not want to stimulate the market in elderly services and therefore provide the widest possible choice to people who use them. The minister also said that paying fees was a legitimate business expense. Why is it a legitimate business expense for organisations that are regulated by the care commission but not for those that are regulated by, for instance, the Food Standards Agency? I would like the minister to respond to that, and I urge the Executive to take on board what the Health Committee said about it in its report.

Funding issues were raised by most organisations. It has been reported widely in the press today that local authorities have varying lengths of delays for people either to be assessed or to receive free personal care. A lot of confusion surrounds the issue. I agree with the minister to a certain extent: I firmly believe that there is enough funding sloshing about the system to fund free personal care but, because of the flawed distribution formula, some authorities are having difficulty funding the policy. Some councils are spending well below their GAE on elderly services, but are spending far more than their GAE on children's services from their social work budget. I know that it is not for the minister to respond to that today but, as I have said before, that issue has to be addressed, otherwise there will always be anomalies.

There seems to be a specific anomaly in relation to care in residential establishments as opposed to care at home. There is a ceiling for care in residential establishments, but no ceiling for the amount of money that can be spent on care packages that are delivered at home. I am not suggesting for a minute that people should not be able to access care packages at home, but the anomaly has to be addressed. If local authorities are pressed for funds, there is a possibility that

they will ration care packages at home, which would take choice away from people.

The last point that I want to raise—the question of just what a person's needs are—has not been covered to any great extent today, but it was raised at every forum on the subject and by many witnesses who spoke to the Health Committee. Who decides what the needs are of people who receive care packages at home, especially when those packages are paid for by direct payments? It seems that local authorities assess needs and determine what direct payments can be spent on. Nanette Milne said that direct payments offer choice, but whose choice is it? The system is discriminatory. Essentially, it involves local authorities making lifestyle choices for elderly and disabled people. That applies not only to the 2002 act but to other pieces of legislation that the Health Committee has considered. As I said in the committee, somebody might be assessed as needing seven baths a week and three meals a day delivered to their home, but they might actually want five baths a week, two trips to the library and a dinner party on a Friday night. Should they not be able to decide what the money should be spent on? The Executive has to take that issue on board. If direct payments are to empower disabled and elderly people, the system has to be more flexible.

If free personal care is to be continued and rolled out to young disabled people, we have to ensure that it is adequately funded and that it delivers services that people want rather than services that other people think they need.

The Deputy Presiding Officer (Murray Tosh): I will give John Swinburne two minutes.

16:21

John Swinburne (Central Scotland) (SSCUP): Two minutes are all that I will need to compliment the Deputy Minister for Health and Community Care, Roseanna Cunningham and her committee and every speaker in this debate. All of them have consensually pulled together in the right direction, looking towards the interests of elderly people. I thank them all for what they have said, what they have done and what they will do in the future. In my opinion, the Scottish Parliament came of age today. It grew up and put common sense ahead of party interests. If the same approach were taken on all health issues, this would be a much healthier and happier country.

The suggestions that we have heard today have been absolutely superb. One or two things must be tweaked and adjusted to make the policy even better than it is just now. Instead of making organisations pay to be visited by the care commission, the care commission should be given teeth so that it can examine the financial situation in care homes. It should be allowed to look at the books of private care homes to see whether excessive profits are being made. Care of the elderly should not be in private hands, it should be in public hands, but where it is in private hands we should monitor it and ensure that excessive profits are not being made by not feeding residents appropriately or by not having enough staff. We must cut all of that out in order to make the scheme as perfect as we can.

This has been a heartening debate. Thank you for my two minutes, Presiding Officer.

The Deputy Presiding Officer: I wish that everyone was always as happy.

16:23

Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): I congratulate Janis Hughes and her colleagues on the committee on producing the report and securing this debate. Janis Hughes gave us a good overview of the work that has been undertaken by the committee. I commend her and the committee's officials. It is clear that the inquiry has been thorough. She told us that the committee heard of the improvement in elderly people's quality of life. That has been echoed by speakers across the chamber, and none of us can gainsay it. This Parliament has delivered the policy to the elderly people of Scotland in a very real way. I have seen that improvement in my constituency. Some of the bedblocking problems that were experienced when the service was rolled out have somewhat lessened.

Janis Hughes gave us a snapshot of some of the problems and we heard about them in more detail as the debate continued. In particular, she mentioned waiting lists and the preparation of meals. I welcomed her announcement, which the Deputy Minister for Health and Community Care confirmed, that the Scottish Executive is conducting a review of the financing that local authorities need.

It is perhaps worth dwelling for a moment on the minister's point that the Health Committee's inquiry is the first post-legislative review inquiry that we have had in the Parliament. There will be many more in the future. As has been said, the way in which the inquiry was carried out is a template for what will be done in the future. It seems to me, as a bystander who is not a member of the committee, that the inquiry was useful and thorough.

Kenny Macintosh addressed the key issue of the distribution formula and cited the particular instance of East Renfrewshire. That led to my intervention, which I followed up with several other speakers, about the fact that it is deeply important

to understand the figures. I will return to that point in a moment.

Shona Robison mentioned meal preparation and rightly pointed out the broader remit of the inquiry and the issue of the care commission versus the councils. There is an interesting question about where the fault lies, if I may be so subjective, but perhaps we can return to that on another day.

Nanette Milne made the interesting point that the attitude of senior officials in local authorities is important, because it affects how direct payments are rolled out. My colleague Euan Robson, besides highlighting the large number of elderly people in Coldstream, made important points about the thoroughness of the inquiry and the importance of the relationship between local authorities, COSLA and the Scottish Executive. As other speakers have said, different things are said in different quarters.

Rob Gibson and Eleanor Scott made the point, which I will dwell on in a moment, that we need to provide not just free care for the elderly but free local care for the elderly. We are in danger of losing sight of that.

I return to my main theme, which is the need to be absolutely accurate about costs, with which I think the minister agreed. Time and time again, some say this and some say that. To give an example from the Highlands, it appears that the teaching of music, sport and art to primary 1 to 3 pupils is to be taken away. Highland Council tells us that that is due to shortfalls because of McCrone or funding from the Executive, but we have letters from Peter Peacock saying the opposite. In that case, as with funding of care for the elderly, we need absolutely accurate figures. I said previously—and I say it again to the minister—that we need to be certain that the audit process and the advice that is given to ministers are totally watertight and transparent. Without that, we can find that the best of policies, through vagueness over figures, are not delivered despite the best intentions.

Eleanor Scott and Rob Gibson were right to stress the need for local delivery of services. A respite facility in Assynt, which is in my constituency—and, indeed, in their constituencies—might be closed down. If it closes, elderly people will have to be moved a great distance to seek services. All of us who represent rural constituencies know that it is crucial for services to be delivered at the most local level. We ask the minister to reserve the right to examine individual decisions that are made, because they are important to our constituencies. If we are not careful—not through malice aforethought, but perhaps through not being as accurate as we should be—we will find that the best policies are not rolled out in the way that we desire.

I commend the report to the Parliament. It is a thorough piece of work. I have said this many times before in the chamber, but I will say it again just for the sake of it: if there is one thing that the Parliament does better then elsewhere, it is committee work. I bow to previous inhabitants of that place called Westminster, but I suspect that our committee work is of a much higher quality, given the thoroughness with which matters are investigated. People from all parties in the Scottish Parliament should be proud of that.

16:29

Mr David Davidson (North East Scotland) (Con): This has been a good debate, in which members have engaged with one another and made constructive suggestions. The minister should listen to the criticism, but the criticism that we heard this afternoon was constructive and it was laid out in a good style and manner.

It may be hard for the minister to defend the policy, but that policy was created by all of us in the Parliament and we should be proud of it. We have a duty to be critical. I am a great fan of the post-legislative scrutiny system—there is not enough post-legislative scrutiny. I congratulate all my former colleagues on the Health Committee on the excellent report that they have produced and on highlighting many issues.

In opening the debate, Janis Hughes mentioned the tensions that exist between health boards and local authorities. We all know of examples of patients falling between the responsibilities of the two. The question of who is responsible for which assessment has been asked. Jean Turner touched on that when she asked what is wrong with secondary care experts telling people what is needed and the local authority delivering that. We must look at that issue. I will not go into the politics of who said what and when because that will not take us forward, but there is a lesson to be learned. The system should be user focused—members have talked about there being a client focus. Obviously, carers are also involved, as many members have mentioned.

It is a fact that the costs were underestimated at the very beginning. I had a meeting with the Minister for Finance and Public Services at the time, in which he acknowledged that the policy would be expensive. Nobody is denying that we have been playing catch-up since then—I hope that the minister does not try to deny that. We are not arguing that there must not be quality audits and all the rest of it, but the policy gives people a right under the law to a certain expected form of care, which, as Kate Maclean rightly said, should involve an element of choice.

Janis Hughes talked about inflation proofing free personal care. I would have thought that the need

to do that was obvious—it was certainly obvious to the minister all those years ago. There are issues to do with waiting lists. I look forward to hearing what the minister says about such matters at the end of the debate. He certainly answered some of my questions earlier.

I will deal with key points that members have made. Shona Robison talked—as I do—about interpretation, and asked why food is prepared in some areas but not in others. There should have been clarity in the original guidance; I hope that such clarity will result from the report.

My colleague Nanette Milne talked about the obvious postcode lottery that exists, which—I presume—comes down to each council delivering slightly different things. Councils in the north-east have certainly shared documentation on that. It also comes down to the distribution formula, which many members have mentioned.

Euan Robson and Nanette Milne talked about the dignity and independence of individuals who receive the service. We should always remember that that is what the policy is all about. Euan Robson mentioned the possibility of people who live in private accommodation being ignored; I hope that the minister will respond to what he said. I presume that he was talking about assumptions that such people do not need help or care. The matter needs to be addressed.

Rob Gibson highlighted the fact that delivering services in rural areas costs more. Rural systems are difficult and expensive to run. Experts waste a lot of time travelling between points. More support must be given to carers and families in such areas and we must try to keep people in their communities, whether in cottage hospitals—Christine Grahame suggested that—or in community hospitals in which there are free beds and where they can receive nursing care.

Mike Rumbles mentioned something that many of us have been worrying about: COSLA's role. If COSLA is supposed to be the councils' representative negotiating body, why does it appear not to represent them? Conservative members would much prefer there to be direct connections between councils, which know best about their own patches, and the Executive, or at least Executive officers, because one size does not fit all and never will. We must take care of that matter.

Mr Stone: Out of interest, is abolishing COSLA a Conservative policy?

Mr Davidson: No. COSLA is a membership organisation. If members want to leave it—as they have done in the past—that is entirely a matter for them. We are not looking to blame people; we are looking for understanding and proper negotiations between those who deliver the service and what the minister and the Parliament think that that service should be.

That brings us back to the fact that this is not an argument about COSLA. Mike Rumbles was quite right to ask what the routine is. People who come to our surgeries are not interested in whose fault it is; they want us to sort it out and they want to know how that will happen.

The Executive must do its sums with regard to the demographic shift in different communities, the aging population and what is required. It must help people to understand what they are entitled to and how to get it. The distribution formula for funding is wrong—that is a fact of life—and we have to get it right. Nevertheless, we should be proud of the act and I am looking for the post-legislative scrutiny to result in action.

16:36

Mr John Swinney (North Tayside) (SNP): Implementation of the policy on free personal care has been one of the most significant legislative acts of the Parliament. At the stage of post-legislative scrutiny, it is also a policy that commands support across the political spectrum. Any comments that we make about the operation of the policy must be set within the context that we are all supportive of the policy and want it to be successful. In drawing the debate to a close for the Scottish National Party, I will concentrate on two principal issues: the cost of free personal care, and charging for food preparation.

The concern that has been expressed about the length of waiting lists that exist for the provision of free personal care is a product of two things: poor guidance from the Executive in relation to eligibility for free personal care and a lack of resources being provided to local authorities. Paragraph 18 of Executive circular CCD5/2003 states:

"Following a needs assessment, payment towards personal care should commence when the authority is in a position to arrange or provide the required services."

In my opinion, that is a conditional remark that suggests that local authorities are entitled to make a judgment about the available financial resources to determine when they will provide the services to an assessed individual. That means that, although someone has been assessed, they will not automatically get free personal care but will have to wait for the money to be available. It is, therefore, entirely wrong to accuse local authorities of somehow inventing waiting lists. The guidance from ministers has allowed local authorities to create those waiting lists.

A lot of comments have been made about the lack of money, where COSLA has been and why nobody has been making a fuss. Mr Rumbles made, as always, an eloquent speech in which he

asked where COSLA had been in the process. However, I pose the question: where was Mr Rumbles back in January when the Parliament debated the local government financial settlement for 2006-07? I was here, arguing that the local government settlement had to be increased by £85 million to take account of the funding pressures on local authorities. That figure came from a Finance Committee report that was agreed by every political party that is represented on that committee, taking into account submissions from COSLA and everybody else about the funding gaps that existed in the provision of public services. If the Parliament had voted for my crystal clear amendment in January, we would not be talking about the financial problems that exist in relation to the policy of free personal care.

As a constructive suggestion to the minister about what action may be taken on the issue, I wonder whether he has given consideration to funding free personal care in the same way that housing benefit is funded. A local authority has a statutory responsibility to determine who is eligible for housing benefit and can then claim the money back from the Scottish Executive. Free personal care could be provided on that basis. The local authority could fulfil its statutory duty to pay for personal care for everyone who was entitled to it and could then get the money back from the Executive. If that happened, we would not be involved in this game of ping-pong; everybody would not be playing pass the parcel, and our elderly citizens would be dealt with in a civilised fashion, which is their entitlement.

My second principal issue concerns charging for food preparation. Euan Robson hit the nail on the head when he said that the Executive has issued three sets of guidance on food preparation. He also said that local authorities should get some clarity. Having looked at the guidance, I have to say that it is absolutely impossible to find clarity in the system.

Paragraph 2 of the most recent circular, which the minister sent my colleague Roseanna Cunningham, the convener of the Health Committee, in May 2006, says:

"local authorities are not to charge … for assisting with the preparation of food".

That is clear so far. Paragraph 3 goes on to say that the circular that was issued on 29 July 2003 stated, among other things, that

"Food preparation and provision of meals are not included".

Translated into English, paragraph 3 means that local authorities are entitled to charge for food preparation and the provision of meals. Paragraph 4 says that the Scottish Executive

"issued a letter to local authorities on 24 September 2004 which stated that guidance was inconsistent"

with the legislation that the Scottish Parliament had passed. It should be clear by now, but then we reach paragraph 5, which starts:

"However, the letter of 24 September 2004 did not draw out any distinction between the term 'food preparation' used in the guidance and the term 'assisting with the preparation of food'".

Anyone who can work out the difference between the terms "food preparation" and "assisting with the preparation of food" is a better man than me and other members of the Parliament. The guidance is utterly impenetrable and local authorities are exposed to severe financial risk as a result of that dodgy advice from the Executive.

I conclude with Christine Grahame's point about community hospitals as a step-down facility to relieve bedblocking. Ministers will be considering a proposal to develop a new community hospital in Pitlochry in my constituency to add to the numerous excellent community hospitals that we have. When facilities are being expanded, why do ministers decide to close those wonderful jewels in the crown of our community health care services?

16:42

Lewis Macdonald: The debate has been useful and a measure of the inclusive and effective work that was done by the Health Committee in setting about its post-legislative scrutiny. A large number of points have been made during this full debate and I will try to answer some of them as fully as time permits. We have heard confirmation today that a broadly supported policy is working well. At any one time, 50,000 people in Scotland are benefiting directly from the policy.

As I indicated earlier, we began a major evaluation of the policy last year; we expect to complete the review this year and to publish our findings and conclusions early next year. That evaluation is being overseen by an evaluation reference group on which many organisations are represented. As well as COSLA and the care commission, individual local authorities, care providers, older people's representative organisations and the Social Work Inspection Agency are represented, and the work of that evaluation group will ensure that we have a detailed picture of what the policy provides and how it is operating around the country. Once we have that detailed picture, we will be able to take the necessary steps to make further improvements. Some of the issues that are highlighted in the Health Committee's report will inform that evaluation.

Funding has been a concern for several members. We are considering carefully the level of payments for personal and nursing care for residents in care homes, but we have not yet

reached any conclusions. It might be of interest to members to know that early indications suggest that the initial work that was done by Stewart Sutherland and the care development group might have overestimated the cost of providing personal care but underestimated the cost of nursing care. We will seek to quantify those costs during the review and will proceed accordingly. However, it is important to be clear that while those payments have been fixed, they are not the whole story of funding.

Additional funding for free personal care has increased from GAE provision of £143 million in the first full year to £162 million in the current year. Provision for poorer pensioners to receive free personal care was more than £60 million in 2001-02; it is now approaching £90 million in the current spending review period. Funding to help poorer pensioners to meet their care home costs has increased from £283 million in 2001-02 to some £457 million in the current year. All those funding streams ought to be taken into account in assessing costs and spending, and that is what we will do in our evaluation.

At the meeting of the health and community care ministerial steering group on joint working, which I chaired on Monday 11 September, representatives from COSLA and the NHS agreed that work to develop outcomes for jointly delivered services should be taken forward. That work will ensure that partnerships have a clearer focus on the kinds of outcomes that will meet the needs of the people who access their services. For example, when a local authority and an NHS board are working together to deliver a package of personal and nursing care, we will have an opportunity to examine how they are held to account for the delivery of those services and whether improvements can be made to ensure consistency in delivery.

One area in which we are keen to ensure consistency of delivery is assistance with preparation of food, to which several members referred. I remind John Swinney that the letter that we sent to the committee in May made it clear that we expect local authorities to provide without charge assistance with such tasks. Simple tasks associated with the preparation of food should be provided without charge where there is an assessed need, but all such provision should be made on the basis of an assessed need. However, given the clear variety in the understanding of the matter, we will certainly address that issue in our review.

Mr Swinney: Where does it say that in the six-paragraph note that the minister provided to the committee? For the life of me, I cannot see where it says that.

Lewis Macdonald: At the beginning of paragraph 6, the note states:

> "services are to be provided following assessment of the needs of the persons concerned … there is no question of automatic entitlement to a free service"

as entitlement should be on the basis of assessed need. That is precisely the point that I just made. However, as part of the review that we are conducting, we will examine the issue and, if there is a need to provide local authorities with yet further clarification, we will provide it in due course.

I want to say at least something about the regulation of care by the care commission. Several members raised concerns about the policy of full cost recovery. It is important to note that, in relation to the care of elderly people, that position has already been achieved and put in place. On the basis of an accurate knowledge of the cost of regulation, we were able to reduce fees for the care home sector to £148 per place in the current year. We were able to do that because we had an accurate assessment. Where we take a policy view that we ought to take a different approach, we will do so by the explicit provision of a quantifiable subsidy to meet the quantified cost of regulation.

In setting fees for 2007-08, as well as consulting on the care commission's costs, we will consult on reducing the frequency of inspections for a number of services so that the commission can focus properly on the services and providers that require the greatest improvement. We will also consult on whether the care commission could reduce the frequency of inspections when it believes that that could be done without jeopardising the interests of service users.

Another continuing debate on the work of the care commission concerns the sharing of information; several members highlighted that issue. Clearly, we will continue to encourage the care commission and others who are involved in the monitoring of services to ensure that they are not duplicating activity.

Briefly, in response both to the committee's recommendations and to the important points that have been made this afternoon, we will shortly go out to consultation on guidelines on direct payments to encourage local authorities to work towards increasing the take-up of such payments in line with national policy.

We welcome the post-legislative scrutiny of all these areas. That work—and, no doubt, the debate—will continue. Above all, we will carry on delivering these services on the basis of our on-going review of such matters.

16:50

Roseanna Cunningham (Perth) (SNP): As convener of the Health Committee, I thank my

fellow committee members, who have worked on this inquiry over the past year; the whole of the clerking team, some of whom have been in the chamber listening to this afternoon's debate; and the organisations and individuals who have helped us over the year by providing written and oral evidence. We owe everyone a huge debt of thanks. Understandably, coverage of the report—and the content of today's debate—has focused mostly on personal care. However, I want to mention other aspects of the report before I return to that matter.

First, the committee believes that the Regulation of Care (Scotland) Act 2001 has achieved its primary purpose of creating a better regulatory regime and we want that to continue. That is not to say that no concerns have been raised or complaints made. That is what post-legislative scrutiny is for.

We have recommended that agreements between local authorities and the care commission should be made mandatory, given that, at the moment, only eight of the 32 authorities have them. A duty should be placed on them to share information. I am disappointed that the Executive has thus far rejected that recommendation; doing so simply gives a green light to the local authorities that do not want to be as co-operative as they might be on this matter. I realise that some might have certain distinct and separate concerns that should be monitored by them, not the care commission, but there is no reason why such aspects cannot be included and acknowledged in any agreement.

As Kate Maclean and many other members have pointed out, we are concerned about the basis of the care commission's funding. The Executive's response on this issue needs to be better than simply saying, "It was a policy decision." After all, as Kate Maclean said, the Executive must explain why such a decision did not apply to the Food Standards Agency—and does not apply to the child care strand of the care commission's work. The committee was not convinced and remains disappointed by the Executive's response.

The Executive accepted the committee's recommendation that the care commission registration system be simplified to avoid multiple registrations, and I am interested to know how that will be implemented.

Irene Oldfather rightly raised the question whether the outcome of care commission investigations would be published. The committee recommended that that should happen, and used the work of the Scottish public services ombudsman as an example of good practice in that respect. We urge the minister to say to the care commission that such outcomes should be published in future.

I thank Helen Eadie for focusing on direct payments and I am glad that the Executive broadly supports the committee's recommendation that there should be more publicity about their availability. In fact, our discussion of the issue highlighted some of the most compelling reasons why such an approach is a far better way of dealing with people who require care. For a start, it empowers individuals. That said, as my colleague Shona Robison pointed out, research conducted for the committee indicated that the approach had encountered resistance from professionals, who felt that it disempowered them. That slightly worrying discovery shows that there is something of a misunderstanding about the purpose of direct payments. The point is that we need to empower individuals, not the professionals. Perhaps that highlights a cultural issue that needs to be worked on.

As far as free personal care is concerned, I want to reiterate what many members have said: overall, the policy has been and continues to be a success. Of course, that does not mean that it has stopped being controversial. We have to take all that on the chin.

I would like to highlight a small point made in paragraphs 21 and 22 of our report. We are saddened that nobody has actually researched where money has been saved because of the introduction of personal care for the elderly. The opportunity benefits to the NHS that have emerged as a result of the introduction of the policy have been highlighted, and those will not be the only benefits. We always put things on the cost side of the balance and never on the other side to highlight the benefits that have arisen. Some of those benefits are financial. They may not appear in the specific budgets that we are discussing, but there are overall benefits.

The minister has talked about the current Executive review, and I am glad that it will be concluded as soon as he has said and published early in the new year. I might argue, however, that the Parliament has, in a sense, already done that job through the Health Committee, and I wonder why we need to continue replicating that work. We have now had detailed research from the Joseph Rowntree Foundation and the Health Committee, both of which are in broad agreement, and I would expect that any objective work that the Executive does will come to much the same conclusions. Why spend the money when we have already done that?

Personal care is certainly a success when people get it, but the complaints are frequently about the length of time that people have to wait for it. A number of members have raised that important issue.

Lewis Macdonald: We recognise the value of the work of the committee and of the Joseph Rowntree Foundation. It is precisely the problems that the committee has highlighted that our review is concerned with addressing, and I hope that the member will welcome that work.

Roseanna Cunningham: I look forward to it.

A number of members referred in passing to delayed discharges. I have had a recent constituency case of an elderly man being kept in hospital pending a care package being put in place and I am beginning to be a little concerned that the dreaded bed blocking might reappear if we do not address some of the waiting times issues that are beginning to emerge.

The Executive has only noted the committee's main recommendations on free personal care—the issues about rationing, waiting lists and the preparation of meals. Because of the on-going review it is reserving judgment on those matters, but I reiterate that we have already addressed many of those issues. Many of the problems arise from confusion about what the guidance has actually meant. John Swinney referred specifically to that problem, and it is interesting that the £85 million gap that he identified in January 2006 relates to the gap of almost £80 million evidenced by the statistics received from local authorities by the Health Committee. I am sure that that is more than just a coincidence.

The Executive accepts the committee's recommendation to carry out a thorough review of long-term funding, which is welcome, but I want to hear that demographic trends will be brought into that. A major problem is developing in some areas because of the demographics, and I agree with Euan Robson and Mike Rumbles, who referred specifically to the considerable differences that appear to be developing between what COSLA says and what many of its member organisations have to say. Mike Rumbles referred to the invidious position in which councils find themselves. Perth and Kinross Council has recently transferred money from elsewhere in its budget to bridge the gap, which means that other parts of the budget are being raided—robbing Peter to pay Paul—and we do not want to see that happening any more than is necessary.

I refer briefly to statistics and to the freedom of information requests that were made to all councils. The statistics were published last Friday and were picked up by the media today, and Rob Gibson referred to them in his speech. I have looked through all the information received by the committee and can advise that, as regards timescale, most of the information came in over the July to August period, so it is current. I understand that, in some quarters, it is being said either that the figures are outdated or, in the case of one council, that the waiting times put next to its name are nonsense. That surprises me, as all the information that has appeared in the published statistics comes directly from the councils themselves. That suggests to me that there may be one or two more problems that councils need to address, besides the delivery of personal care, if their internal information-gathering mechanisms are not particularly good.

Members have talked about meal preparation. The committee read the minister's guidance that was issued on 25 May, but I have to say that not a single member was any the wiser. Given the continuing differences in interpretation, we are clearly not alone. A number of those issues must be clarified urgently. We cannot wait for the review.

I reiterate how welcome the policy has been. I accept the minister's warm words, but I am sorry that he could not accept more of our recommendations. I also regret that, despite the importance of the issue under discussion, more members did not see fit to join us in the chamber for the debate.

Point of Order

17:00

Margo MacDonald (Lothians) (Ind): On a point of order, Presiding Officer. I seek guidance from you on the conduct of business in the Parliament. I am well aware that Audit Scotland and the Auditor General for Scotland are not controlled either by the Executive or by Parliament, but Audit Scotland undertakes to produce reports for Parliament, properly to inform MSPs and the Executive. Is it therefore good practice—never mind good manners—that the press and other agencies outside Parliament should have prior sight of the report that is to be published tomorrow? All members have an interest in it and I know that, like me, other Edinburgh MSPs are anxious to see it. I will not touch on the contents of the report, but merely seek your guidance on the correct operation of how Audit Scotland interprets its responsibility to Parliament.

The Presiding Officer (Mr George Reid): My initial reaction is that that is not good practice, but I will look into the matter a little further. In the meantime, I understand that the report on relocation is available at the chamber desk. Audit Scotland will no doubt note what you have said now that it is on the record. I will look into the matter.

Business Motions

17:02

The Presiding Officer (Mr George Reid): The next item of business is consideration of business motion S2M-4815, 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 27 September 2006	
2.30 pm	Time for Reflection
followed by	Parliamentary Bureau Motions
followed by	Stage 1 Debate: Crofting Reform etc. Bill
followed by	Financial Resolution: Crofting Reform etc. Bill
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	Scottish National Party 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	Ministerial Statement: Right to Buy
followed by	Stage 1 Debate: St Andrew's Day Bank Holiday (Scotland) Bill
followed by	Parliamentary Bureau Motions
5.00 pm	Decision Time
followed by	Members' Business
Wednesday 4 October 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 5 October 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— Finance and Public Services and Communities; Education and Young People, Tourism, Culture and Sport
2.55 pm	Executive Business
followed by	Parliamentary Bureau Motions
5.00 pm	Decision Time
followed by	Members' Business.—[*Ms Margaret Curran.*]

17:02

Rob Gibson (Highlands and Islands) (SNP): Does the minister agree that the complexity of the Crofting Reform etc Bill, the stage 1 debate on which is proposed for next Wednesday, makes it all the more urgent that the Minister for Environment and Rural Development should respond as soon as possible to the Environment and Rural Development Committee's stage 1 report, which was published in June? That is two and a half months ago and we are now less than a week from the proposed debate. Will the minister say whether her response has been delivered this afternoon since the committee met, or whether it will be delivered to us in time to allow us to consult our constituents prior to next Wednesday?

17:03

The Deputy Minister for Environment and Rural Development (Rhona Brankin): I acknowledge Rob Gibson's concern. He is right to indicate that the committee's report was very detailed. As the member knows, crofting legislation is complex. We thought that it was important to get a good-quality response back to the committee, so we have taken time to ensure that we do that. The Executive's response will be with the committee by the close of play tomorrow.

The Presiding Officer: The question is, that motion S2M-4815, in the name of Margaret Curran, on behalf of the Parliamentary Bureau, setting out a business programme, be agreed to. Are we agreed?

Motion agreed to.

That the Parliament agrees the following programme of business—

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5.00 pm	Decision Time
followed by	Members' Business

Wednesday 4 October 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 5 October 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— Finance and Public Services and Communities; Education and Young People, Tourism, Culture and Sport
2.55 pm	Executive Business
followed by	Parliamentary Bureau Motions
5.00 pm	Decision Time
followed by	Members' Business.

The Presiding Officer: The next item of business is consideration of business motion S2M-4816, in the name of Margaret Curran, on behalf of the Parliamentary Bureau, setting out a timetable for legislation.

Motion moved,

That the Parliament agrees that consideration of the Adoption and Children (Scotland) Bill at Stage 2 be completed by 10 November 2006.—[*Ms Margaret Curran.]*

Motion agreed to.

The Presiding Officer: The next item of business is consideration of business motion S2M-4817, in the name of Margaret Curran, on behalf of the Parliamentary Bureau, setting out a timetable for legislation.

Motion moved,

That the Parliament agrees that consideration of the Criminal Proceedings etc. (Reform) (Scotland) Bill at Stage 2 be completed by 24 November 2006.—[*Ms Margaret Curran*.]

17:04

Bill Aitken (Glasgow) (Con): I understand that various issues arose when the matter was dealt with this morning at the Justice 1 Committee. That leads me to the view that, had the full information with regard to the timetabling of a number of pieces of legislation been available yesterday at the Parliamentary Bureau meeting, the bureau would not have been of a mind to agree the timetable motion today. I think that other members have expressed concerns in that respect. Margaret Mitchell, the Conservative party's representative on the Justice 1 Committee, has raised the issue with me and I await a report from her.

Pauline McNeill (Glasgow Kelvin) (Lab): I am grateful to Bill Aitken for giving way. I support his remarks and I confirm that members of the Justice 1 Committee have concerns about an intolerable workload. However, we are more concerned about the detailed scrutiny of the Criminal Proceedings etc (Reform) (Scotland) Bill. We got a detailed 40-page document in response to our report and we need time to take it in, so the proposed timetable will be difficult for us. I am sure that Bill Aitken would agree that voting to accept the timetable should not close the door on our going to the Parliamentary Bureau if we find that the timetable is becoming unbearable.

Bill Aitken: I agree with that. We must bear in mind the procedures with which we must deal, so the solution might well be to agree the timetable motion today and then look to the Minister for Parliamentary Business to investigate the matter and meet the interested parties to ascertain how it can be resolved. If necessary, we can take the matter back to the Parliamentary Bureau. There appears to be a real issue here.

17:06

The Minister for Parliamentary Business (Ms Margaret Curran): I thank Bill Aitken and Pauline McNeill for giving me notice of their intention to raise their points.

I would of course always attempt to meet members who had concerns about how we manage business in the Parliament. However, members would need to cite for me the substance of the issues so that we can properly address them. I am not fully aware of what the issues are.

I appreciate the co-operation of the business managers, who work with us constructively to ensure that we get the legislative programme through. I would want to meet, with the permission of Parliament, all the members concerned in order to address the issues and ascertain what resolution can be achieved.

The Presiding Officer: The question is, that motion S2M-4817, in the name of Margaret Curran, on behalf of the Parliamentary Bureau, setting out a timetable for legislation, be agreed to. Are we agreed?

Motion agreed to.

That the Parliament agrees that consideration of the Criminal Proceedings etc. (Reform) (Scotland) Bill at Stage 2 be completed by 24 November 2006.

The Presiding Officer: The next item of business is consideration of business motions S2M-4818 and S2M-4819, in the name of Margaret Curran, on behalf of the Parliamentary Bureau, setting out a timetable for legislation.

Motions moved,

That the Parliament agrees that consideration of the Legal Profession and Legal Aid (Scotland) Bill at Stage 2 be completed by 3 November 2006.

That the Parliament agrees that consideration of the Schools (Health Promotion and Nutrition) (Scotland) Bill at Stage 1 be completed by 12 January 2007.—*[Ms Margaret Curran.]*

Motions agreed to.

Parliamentary Bureau Motion

17:07

The Presiding Officer (Mr George Reid): The next item of business is consideration of motion S2M-4814, in the name of Margaret Curran, on behalf of the Parliamentary Bureau, on the approval of a Scottish statutory instrument.

Motion moved,

That the Parliament agrees that the draft Fundable Bodies (Scotland) Order 2006 be approved.—*[Ms Margaret Curran.]*

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

Decision Time

17:07

The Presiding Officer (Mr George Reid): There are two questions to be put as a result of today's business. The first question is, that motion S2M-4795, in the name of Roseanna Cunningham, on the Health Committee's 10th report of 2006, be agreed to. Are we agreed?

Motion agreed to.

That the Parliament notes the conclusions and recommendations contained in the Health Committee's 10th Report, 2006 (Session 2): *Care Inquiry* (SP Paper 594).

The Presiding Officer: The second and final question is, that motion S2M-4814, in the name of Margaret Curran, on approval of a Scottish statutory instrument, be agreed to. Are we agreed?

Motion agreed to.

That the Parliament agrees that the draft Fundable Bodies (Scotland) Order 2006 be approved.

Maternity Services (Aberdeenshire)

The Deputy Presiding Officer (Trish Godman): The final item of business today is a members' business debate on motion S2M-4689, in the name of Mike Rumbles, on maternity services in Aberdeenshire. The debate will be concluded without any question being put.

Motion debated,

That the Parliament notes with disappointment the decision of NHS Grampian to recommend to the Minister for Health and Community Care the closure of maternity units at Aboyne, Huntly, Fraserburgh and Banff; commends campaigners who have fought to retain these units on the positive way in which they have engaged in the board's consultation process on the issue; continues to agree that these units are an excellent example of health services being delivered locally as advocated by Professor David Kerr in his report, *Building a Health Service Fit for the Future*; further agrees that expectant mothers should have the option of giving birth locally, at Aberdeen Royal Infirmary or in the home, and believes that the Minister should reject the board's recommendation and retain these units to give expectant mothers a genuine choice.

17:10

Mike Rumbles (West Aberdeenshire and Kincardine) (LD): Members will recall that last November we debated Grampian NHS Board's intention to close the Aboyne maternity unit in my constituency. Tonight we debate NHS Grampian's final recommendations on the maternity units in Huntly, Fraserburgh, Banff, Peterhead and Aboyne. Maureen Watt will concentrate on the Banff and Buchan units. The Huntly unit is not operational, of course, and the board's decision to close it formally does not seem to be contested. Therefore, I will deal exclusively with the plans to close the Aboyne unit.

The Aboyne unit is part of the local community hospital. It is in a modern setting, which was opened just three years ago by the Princess Royal. Although everyone welcomes plans for new diagnostic and treatment services and services for the elderly, the community of Deeside is outraged at the prospect of having our maternity unit closed for births and at being told that mums will have to have their babies at home or travel into the city of Aberdeen to have them. People from Braemar will have to make a 120-mile round trip to Aberdeen royal infirmary, in all weathers. Tonight's debate is not about having services for the elderly or maternity services—it should not be a case of either/or; we should have both those services locally, in line with the recommendations of the Kerr report.

When NHS Grampian consulted local people on its proposals, it received a clear and unequivocal message: "Hands off Aboyne maternity unit." It certainly did not listen and has pressed on with its plans regardless. How often have we heard that about health board consultations?

In response to the demands of the Scottish health council to reconsult, NHS Grampian altered its plans for the north of Aberdeenshire—it has accepted that the unit in Peterhead can remain open. People in the north of Aberdeenshire will be able to use the unit in Peterhead and those in central Aberdeenshire will be able to use the unit at the hospital in Aberdeen, but the people of west Aberdeenshire will have no option at all. Women in that part of the county will have to have their babies at home or travel to the city of Aberdeen.

That is where we get into all kinds of difficulties. Many of the campaigners—some of whom are in the public gallery—are convinced that if mums are asked to choose between a home birth and travelling to the city, inappropriate choices will be made. What will happen when the unit is closed and mothers have complications? We do not need to use our imaginations.

A week last Friday, MSPs for the north-east had one of our regular get-togethers with Grampian NHS. In preparation for tonight's debate, I asked the board to clarify its reasons for closing the Aboyne unit. Colleagues who are present will confirm that, in its response, the board was all over the place. It could not tell me why the unit is to be closed. It said that the reason was not really to do with money or best practice; it was to do with sustainability. We were told that it was not sustainable to keep the unit staffed 24 hours a day for the few births that took place there. The board promised to write to us before tonight's debate to outline the main reasons for the closure, but I am still waiting for its letter.

The problem is that the proposals are flawed. The board members did not seem to know anything about the hugely successful pilot scheme that the Aboyne unit has pioneered, which uses community midwives much more effectively and does not have 24-hour staffing when there are no mums in the unit. Having to deal with arguments from the board that are simply inaccurate and based on ignorance is incredibly frustrating.

I have a copy of the board's submission to Andy Kerr. It says:

"As part of the consultation a significant amount of correspondence was received, particularly from the communities of Fraserburgh and Aboyne."

Too right. Jim Royan, who is the chair of NHS Grampian, says:

"It is my belief that the processes we have used to date have been comprehensive, open and inclusive."

There was nothing wrong with the processes—they were fine. It is just that NHS Grampian totally

ignored the strength of feeling of the Aboyne and Deeside community, who will now have nowhere to go, other than to the city of Aberdeen.

The final paragraph of Jim Royan's letter to the Minister for Health and Community Care is a real cracker. In it, he says:

"The Board of NHS Grampian has concluded that this package reflects the feedback we have received over the last 12 months."

If that does not belong in the realms of George Orwell, I do not know what does. What can he mean by "reflects the feedback"? I urge the minister to examine the feedback that the health board has received over the past 12 months. If he does, he will see that that statement is simply inaccurate.

That sort of thing is typical of what we have encountered throughout our discussions on this sorry state of affairs. Inaccurate information has been presented to decision makers as fact. I might have expected the members of NHS Grampian to ask searching questions of the proposals, but they did not. I might have expected members of NHS Grampian to ask what proposals are in place to deal with maternity emergencies in Deeside when they close the maternity unit in Aboyne. They have not asked those searching questions. I would like to thank Malcolm Bruce, the MP for neighbouring Gordon, who did ask searching questions of the board—questions to which we have still not received a reply.

I say to the minister that, with the failure of members of NHS Grampian to do the job that we expected of them, we are left with a backstop—I am sorry to call the Deputy Minister for Health and Community Care a backstop, but that is what he and the Minister for Health and Community Care, Andy Kerr, are. We turn to them because they are where public and democratic accountability come in.

Whatever happens, it is not sufficient to rubber-stamp the proposals from NHS Grampian. If accountability means anything, I hope that the minister will ask the board to think again. The campaigners are not asking the minister simply to overturn the decision; they are asking for a chance to prove that the Aboyne unit should be reprieved. When Andy Kerr supports midwife-led units in Highland and Tayside, it would be bizarre for him to support the move by Grampian to close all bar one of such units in Aberdeenshire.

I am grateful to Andy Kerr for agreeing to meet me and the campaigners next week so that he can hear about the issue at first hand. The campaigners want him to recommend that NHS Grampian promote the Aboyne unit in the same way as NHS Tayside has promoted its maternity unit in Montrose. I ask the ministers to give the Aboyne unit 12 months. Let the people there implement the business plan and let them prove that the Aboyne unit is a goer.

The people of Deeside are relying on the minister. This is about democratic accountability in decision making. I urge him, please, not to let them down.

17:17

Ms Maureen Watt (North East Scotland) (SNP): I congratulate Mike Rumbles on securing this debate, which will be crucial in determining how NHS Grampian configures services throughout the region—not only maternity services but services for older people and diagnostic and treatment services.

I expected my colleague Stewart Stevenson to be back from Georgia for this debate. I am still hoping that he will come through the door, but if he does not, my remarks refer to Fraserburgh and the north of Aberdeenshire as well as the south.

Mike Rumbles has invested a huge amount of time and effort in this campaign and I am aware of the emotional toll that it has taken on him. At times, dialogue with NHS officials has been fraught—as he has just said. Their unwillingness even to listen to a reasoned argument has made his job very difficult. Therefore, I am pleased to be here to help to secure the future of the maternity units in rural Grampian.

I know that Mike Rumbles appreciates that the Scottish National Party is fighting alongside him on this issue. He cannot rely on his own party, whose local government representatives on the health board voted for closure. That was especially lamentable in the case of Councillor Bisset, whose council—Aberdeenshire Council—had voted to keep the units open.

I, too, welcome the presence of the save Aboyne maternity campaigners in the public gallery. I hope that the minister will be able to tell us that he has read their business plan for Aboyne maternity unit, which aims to develop and expand the unit along the lines of the Montrose unit. A few years ago, the Montrose unit also faced closure, but now 52 per cent of local babies are born there. It is unfortunate that NHS Grampian has not even thought fit to reply in writing to the proposals that the campaigners have made.

I am sure that other members will focus on the long distances, and I am sorry that Andy Kerr declined the invitation to visit the units to see for himself the distances involved. Last week, the Parliament debated the closure of accident and emergency services in Lanarkshire, which will require people to travel distances of fewer than 30 miles. The people who will be affected by NHS

Grampian's proposed closures will have to travel twice that distance or more, on much poorer roads. I recall helping to fight in a by-election in Fraserburgh one January, when I was eight months pregnant. As we drove back to Aberdeen and beyond in deteriorating weather, my fellow activist, Kevin Stewart, became increasingly agitated that I might deliver in the middle of nowhere on a stormy, snowy night. The distances that people must travel are a serious issue.

There are stark inconsistencies in NHS Grampian's recommendations, which fly in the face of many objectives. The Kerr report called for health services to be delivered locally and regionally. NHS Grampian says that a community health unit is needed for the north of the area, but proposes nothing similar for the centre and the south.

There is a clear economic case for keeping the maternity units open. Last Friday, members of the Scottish Parliament received a briefing from Scottish Enterprise Grampian on proposals to increase tourism on the east side of the Cairngorms national park, around Deeside and Donside. The ambition is to increase the value of tourism in the area by 66 per cent—to £86 million—by 2015, which will generate an increase in jobs from 1,223 to 3,076. Many jobs have already been taken up by young migrant workers and many more jobs will be taken up as migrant workers bring their wives and families to the area. I do not expect that the Minister for Enterprise and Lifelong Learning has told the Deputy Minister for Health and Community Care about that—I have yet to find any joined-up government in the Executive—but I urge the Executive to start doing joined-up government and to keep open maternity units that are needed now and will be needed in future.

17:21

Mrs Nanette Milne (North East Scotland) (Con): I am truly sorry that we are again debating maternity services in Aberdeenshire, particularly the unit in Aboyne, because I had hoped that by now the campaign to safeguard the unit's future would have had a happy outcome.

During the more than 40 years in which I have been involved in the health service, change has been the only constant. As medical techniques and treatments increased in complexity, more and more services were centralised in major and teaching hospitals and cottage hospitals began to lose beds or close. The Kerr report and the strategy that followed it, "Delivering for Health", have brought back a welcome focus on the community and include proposals to deal with as many health needs as possible locally and to use district hospitals to deal with more highly specialised needs.

NHS Grampian's health plan fits well with "Delivering for Health" and the public warmly welcomed many of the board's proposals during the extensive consultation that was carried out in the past year. There are welcome advances to do with access to diagnostic tests on one's doorstep, the availability of minor surgery or chemotherapy close to home and the availability of renal dialysis in Inverurie. The only contentious area has been planning for maternity services.

Fashions in midwifery change. At one time, home births were more popular. Later, mums were more likely to use Aberdeen maternity hospital and then midwife-led units began to thrive. As birth rates have fallen, early discharge from hospital has become the norm and it has become more usual for older women to have babies, sadly many smaller units have been forced to close because there are not enough births to enable midwives to retain their skills.

We witnessed such change in central Aberdeenshire. Despite a major campaign, the unit at Insch war memorial hospital closed. The midwife-led unit in Huntly remained, but the number of births fell off until the unit became unviable—it was unlikely that it would reopen. However, pregnant mums in central Aberdeenshire will have a choice, because they can go to Dr Gray's hospital in Elgin if they do not want a home birth or to go to Aberdeen. The situation further north is similar. Although I have great sympathy for people in Banff and Fraserburgh, at least they can go to Peterhead as well as Aberdeen if the units in Banff and Fraserburgh close. However, if the unit in Aboyne closes, people in west Aberdeenshire will be able to choose only between giving birth at home and giving birth in Aberdeen.

People in the area say that NHS Grampian has done little to promote the Aboyne unit. Indeed, many people think that the board has discouraged use of the unit. Women who have given birth in Aboyne or had post-natal care there are enthusiastic about their experiences and the help that they received in establishing breastfeeding and bonding with their babies in the early days of motherhood. They are keen to promote the unit to others, citing as their example the thriving unit in Montrose, which only four years ago was in the same position as Aboyne is in now.

The campaign to save and promote the Aboyne maternity unit has involved people of all ages, throughout the community. It has the backing of Aberdeenshire Council and it has been supported by MPs and MSPs across the political spectrum. However, instead of heeding local opinion, the health board has recommended closure.

As I said in last week's debate on accident and emergency services in Lanarkshire, if it becomes

clear after protracted and widespread consultation that public opinion is solidly against a proposal, and if that view is backed by elected representatives from across the political divide, ministers should be wary of ignoring the weight of that opinion. I urge the Deputy Minister for Health and Community Care and Andy Kerr to think carefully about NHS Grampian's recommendation to close Aboyne maternity unit before deciding on its future.

17:25

Richard Baker (North East Scotland) (Lab): I congratulate Mike Rumbles on securing the debate and all those who are involved in the save Aboyne maternity unit campaign. They have made a compelling case to Parliament and succeeded in bringing an important issue to public attention. Given that, I can understand why NHS Grampian's decision has been so disappointing for them.

In the previous debate on the issue, I made it clear that I did not criticise NHS Grampian for embarking on a process of consultation on and scrutiny of maternity services in the region. However, at the end of the process, aspects of the final decision cause me great concern. I am aware of the strength of feeling on the issue in other areas, for example in Fraserburgh, but I will focus on the decision about the unit in Aboyne, which raises particularly pressing concerns, including the issues of geography that Mike Rumbles mentioned. The points that he and Nanette Milne made on the geographical issues in west Aberdeenshire were particularly persuasive.

Other questions arise. First, I must ask why NHS Grampian has decided that the unit should be shut when, three years ago, investment was provided for a major refurbishment. That is undoubtedly a bizarre approach to forward planning. The second issue is the current use of the unit. In the previous debate on the matter, it was pointed out that the number of births at the unit had increased. We know about the development that is taking place in the locality and that the population in all such areas is predicted to increase. I do not feel that those key questions have been answered adequately. Concerns have also been raised about the consultation process that NHS Grampian carried out, which led to the Scottish health council's recommendation for a new consultation process. I have written to NHS Grampian on several occasions and to the Minister for Health and Community Care to highlight my concerns. It is vital that those matters are considered properly, as I am not persuaded that NHS Grampian has given them due consideration.

I have visited the maternity unit at Aboyne and met the parents who are responsible for the impressive campaign and who have made a compelling case. It is an indication of their commitment that many of them have made the journey down today and will make the journey again next week to meet the minister. I empathise with those of them who had to leave the public gallery earlier—I have a nine-month-old daughter and I understand what it is like to try to entertain and quiet a child at such events. The campaigners are to be commended on their determination to come to events such as this one and to meet the minister next week.

When I visited the unit, I could not have been more impressed with the facilities that are provided at Aboyne, the excellent environment in which mothers give birth and the staff's enthusiasm. Those are further reasons why the decision is bewildering and disappointing.

It is now up to the Minister for Health and Community Care to scrutinise the health board's decision. Of course he will be aware of the strength of feeling on the issue, not only among those who are involved in the campaign, but among members from all parties. I ask him to take fully into account the points that I and others have made in making the case for the retention of the maternity unit at Aboyne, as I fear that that has not happened so far. The unit is cherished by those who use it and is an excellent facility—that cannot be ignored.

17:28

Shiona Baird (North East Scotland) (Green): I thank Mike Rumbles for introducing the debate. In a debate on the same issue in November last year, I said that we should not be having the debate. We certainly should not be rerunning it. Some things should be self-evident, which would make it unnecessary for parents with young families to spend so much of their precious time campaigning against something that should never have been on the agenda. It is important to acknowledge the extent of the effort that is put into campaigns against such closures.

I visited the Aboyne unit last Monday, when I was hugely impressed by the state-of-the-art facilities. It is unthinkable that the unit, which has been open for only three years, should be faced with closure when there is overwhelming support for the first-class service that it provides in the community. An opportunity exists for the facilities to be expanded and used as a family health unit.

As other members have said, the long journey to Aberdeen—especially in the winter months—could put expectant mothers and their babies at risk. Also, women should not be deprived of choice in respect of where their babies will be born. The continued provision of local and accessible

maternity services should be seen as a priority by NHS Grampian and the Scottish Executive. Such a policy would keep faith with what was advocated in the Kerr report.

Giving birth is not an illness that requires hospitalisation: for most women, giving birth is straightforward, so they should have the choice to go somewhere with a home-from-home, relaxing and calm atmosphere, but which has expert help and the right equipment at hand, thereby giving them the very best of both worlds. Giving birth might happen only a few times in any one mum's life, but it is one of the most momentous experiences of her and her partner's lives. It should be an experience that provides positive and happy memories, not one of fear and tension, of racing along country roads or of getting stuck in traffic jams.

Having toured the unit and spoken to staff and campaigners, I know that deliveries at Aboyne are on the increase, which confirms that it is a well-used facility. More houses are being built in the town, so demand is likely to accelerate in the coming years. Furthermore, it is clear that the environmental impact of unnecessary additional journeys to and from Aberdeen, as NHS Grampian seeks to implement cost-cutting measures, has been completely overlooked. We have only to look over the NHS border to Montrose to see a successful community maternity unit. It was threatened with closure a few years ago, but it is now one of the best used and most highly respected maternity facilities in Scotland.

I am concerned that the short-term focus on cutting services and centralisation will lead ultimately to lower breastfeeding rates and poor health among babies and their mothers. A reduction in breastfeeding is already apparent in Aboyne. More resources need to be available, not fewer, so that mums can access drop-in services and get much-needed local support before and immediately after their babies are born.

It is vital that the minister be made fully aware of the long-term consequences of the health board's closure plans. I remain 100 per cent behind the campaigners, and I argue forcefully for the minister's direct intervention to save the Aboyne unit from NHS Grampian's axe.

17:32

Nora Radcliffe (Gordon) (LD): I welcome the debate and the opportunity that it affords to articulate some of the voices that have perhaps not been heard so loudly. I will read part of a letter that I received from a constituent earlier this week. She writes:

"I understand that there is to be a debate in parliament next week about proposed changes to NHS Grampian maternity services. This is part of a package of service changes planned by NHS Grampian, which also includes proposals for older people's services and diagnostic treatment services, as no doubt you are aware … The campaign on behalf of Aboyne and other maternity units has been very well organised by very articulate people. My concern is that if the maternity services remain untouched as a result of these high profile campaigns, then the proposed changes for older people and diagnostic treatment services will suffer through inadequate resourcing."

Mike Rumbles: Will the member take an intervention?

Nora Radcliffe: I do not have time—I have a lot to get through.

Mike Rumbles: That is very disappointing.

Nora Radcliffe: The letter continues:

"I am writing primarily from my personal experience as a carer for an older relative who finds travelling to Aberdeen for hospital appointments exhausting and difficult and would welcome more local access to services. I also know from my job working for a voluntary organisation, which campaigns with and for older people, that many others can also see the benefits to them of NHS Grampian's proposed changes. These would deliver many of the services they use closer to where they live.

I hope that **their** views will not be overlooked in the debate next week, and that Andy Kerr's final decision will take into account that older people have just as much right to choice and high quality local services as young mothers."

I turn now to the maternity units at Inverurie, Insch and Huntly in my constituency. The Inverurie unit was lost—it was closed many years ago because its retention was not supported by local general practitioners. More recently, there was a debate about whether the Insch unit or the Huntly unit should be retained. I did battle for retention of the Insch unit, which I judged to be the more viable of the two, but we lost that battle. The next development was the decision to mothball Huntly. It was hard to disagree with that decision because mothers were exercising choice in that at least half of those who could have delivered in Huntly chose to go to Aberdeen. Midwives were left sitting looking at four walls, waiting to deliver one baby per week, if that.

Mike Rumbles: Will the member take an intervention?

Nora Radcliffe: No. I do not have time and I have a lot to say.

Now that the midwives are not tied to that unit, they are giving much better prenatal and postnatal care to the mums in the area.

The whole package of measures is not all about taking services away from mothers-to-be. One element of the qualified midwifery time in in-patient delivery services at Aboyne, Huntly, Fraserburgh and Banff will be redirected to create capacity within the community midwifery service throughout

Aberdeenshire to enhance antenatal and postnatal care.

Community midwifery teams will be able to provide one-to-one advice, support and counselling. They will be able to provide more frequent and accessible group sessions closer to patients' homes, and to undertake health promotion activity in schools. Specific service developments include the creation of a dedicated midwife post in north Aberdeenshire to support substance misusing mothers; dedicated time in all teams to support teenage pregnancy, address child protection issues and target at-risk families; and dedicated midwife-led ultrasound scanning sessions. Those developments must be weighed against the needs of healthy young mums.

I have a lot of sympathy for the case for a stay of execution for Aboyne for a number of the reasons that have been articulated this evening. A stay of execution would enable the community to demonstrate whether promotion of Aboyne can make it a viable unit. In many ways, that would be the fairest course of action.

We have to remember that although there were 270 responses on the maternity unit side of the debate, there were also more than 200 responses arguing for diagnostic services and enhanced services for elderly and chronically ill people who, as my correspondent said, also require services close to home.

17:37

Dr Jean Turner (Strathkelvin and Bearsden) (Ind): I should explain that although my constituency is in the west of Scotland, I am a graduate of the University of Aberdeen and worked in Aberdeenshire, so I know the area well.

Given that the Kerr report has pushed for services to be provided comfortably near to people's homes, I cannot understand why NHS Grampian is recommending that maternity units be closed. It is not uncommon for units to be upgraded before the board wastes the money that has been spent by closing them or turning them into something else. I cannot see why we cannot have elderly and diagnostic services as well as the maternity service.

Mike Rumbles: The campaign has never been about maternity services as opposed to elderly services. As Dr Turner said, we need both.

Dr Turner: I am glad that Mike Rumbles has clarified that for me.

We have very good antenatal care nowadays and we can usually tell when terrible things might happen. Therefore, ladies who are waiting for their babies to be in the right place are in hospitals. However, if going to the hospital is the only option and women do not have the comfort of knowing that they can go to units such as Aboyne, those who have their families close to them and do not want to leave them might put off going, so emergencies could arise.

We cannot ignore the weather conditions and the road conditions. I have had to go out from Aberdeen with an emergency service to deal with a retained placenta—I will not go into the details. It does not make sense to me to close down a maternity unit when we are hoping to sustain and develop a community. If we do not have health services in the community, we cannot expand it.

As has happened on so many occasions, the health board has held a consultation, but it is not listening and it certainly has not provided a good reason why the units should close. I have not heard anything that makes me think that it would be dangerous not to close them or that they do not have the staff. Why cannot staff be rotated while we are in a time of transition? It is not unusual for doctors and midwives to rotate in order that they can keep their skills up.

Mr Rumbles talked about Montrose. The local health board tried to do something equally bad in Caithness and Thurso. It wanted to take all the consultant cover services away from there and have people travel on a horrible road. Whoever is trying to rearrange maternity services for women does not have a clue how uncomfortable they might be if they have to travel on such roads when they are pregnant and anxious and have not thought about the safety issues.

The situation in Caithness and Thurso has been overturned and I sincerely hope that the one that Mike Rumbles talked about will also be overturned, especially given that the health board is keen to have midwife-led maternity units. If people's skills are kept up, there is no reason why that should not be possible. Mr Rumbles said nothing about how to retain the service with other diagnostic services, which would make sense.

I apologise for the fact that I have to leave to go to another meeting.

17:40

Alex Johnstone (North East Scotland) (Con): I congratulate Mike Rumbles on securing the debate and acknowledge the work that he has done.

I want to talk about matters that many of us who are here tonight were involved in during the early days of this Parliament. In the first two years, I was convener of the Parliament's Rural Affairs Committee. With me on that committee were Lewis Macdonald, who is now the Deputy Minister for Health and Community Care and is with us this evening, and Mike Rumbles.

At that time, all members of the committee said that it was important that we did not make the mistake of allowing that committee to become the agriculture and fisheries committee. Mike Rumbles worked hard and, with my support, secured resources in the committee to conduct a detailed inquiry into the broader issues of rural development. During that inquiry, it became clear that the provision of rural services and the consideration of rural development in a cross-cutting way were essential to sound rural development in the long term. The provision of health services—including specific health services such as maternity services—was seen as being key to the future of rural Scotland.

During the inquiry, the Rural Affairs Committee conducted a number of consultations. Of course, as many people will be aware, it was found that in some of the more sparsely populated areas of Scotland there is a need to provide local services. However, sometimes, genuine deprivation in some of the economies in Scotland can be disguised. It was a great disappointment to me when, in justification for its decision, representatives of NHS Grampian said that resources could be better targeted at areas of social deprivation. That is to assume that areas such as Aboyne do not require targeting of resources for that reason.

One of the clearest conclusions of the Rural Affairs Committee's inquiry all those years ago was that, in areas such as the north-east of Scotland, we should never make the mistake of assuming that, because there is some wealth, there is not also deprivation. For that reason, we must take into account the fact that areas such as Aboyne and the whole of Deeside as far as Braemar also suffer from deprivation in terms of public transport and a great many other things. For that reason, I encourage the Executive to take the view that was supported by ministers some six years ago, which is that rural development is important across a broad range of services, and that we should never allow the priorities of those who wish to centralise services and target resources on our cities to affect the provision of services for some of our most deprived communities.

I think that Aboyne has a good case for the defence on those principles. I encourage the minister to take the opportunity to espouse that view.

17:44

Carolyn Leckie (Central Scotland) (SSP): I congratulate Mike Rumbles on securing the debate. I know that he has doggedly pursued this issue. More important, I congratulate the campaigners and the mums, children and families who are here today. They have put up a sterling fight and have done a lot of work to pick apart the arguments of NHS Grampian, none of which is substantive.

There is a lot about NHS Grampian's proposal that depresses me. There does not seem to be a consistent philosophy underpinning the plans for maternity services throughout Scotland and the justifications for changes or closures. On the one hand, health boards argue for moves from general, consultant-led units to midwife-led units and they use that philosophy to justify closures. On the other hand, successful midwife-led units are closed and women are forced to access consultant-led services even though, perhaps, that would not be their choice. That seems to be NHS Grampian's approach.

There is a consistent factor in health boards' approaches that depresses me. When they want to close a facility, they stop filling vacancies and run the service down so that they can turn round at a later stage and say that it was not viable. In that way, they justify the closure that they were trying to bring about.

According to the mums who I met this afternoon, breastfeeding rates have reduced by 15 per cent in six months. Surely there should be a consistent philosophy to underpin the proposals. Where does health promotion figure in NHS Grampian's proposals? I hope that the minister will take that into account, because we should have an interest in promoting breastfeeding. I believe that the Aboyne maternity unit has high breastfeeding rates but, because of the dispersal of mums that is happening already, they are not getting the support that they could get in a smaller unit. As we all know, urban units are under pressure.

Ms Watt: Does the member agree that, with the best will in the world, midwives cannot be there at crucial times for women who are at home—for example, if they have problems with latching on? It is best to ensure that the process is going well when they are still in the maternity unit rather than at home. Does the member agree that NHS Grampian's proposal to have mothers in and out in six to 12 hours is not conducive to that?

Carolyn Leckie: No mum should be forced to have care that she does not want. It is fine for a mum to be discharged in six hours if she is confident about establishing breastfeeding, particularly if it is her second child, but if women feel pressured to leave early before they have established breastfeeding, that is a problem.

I also hear that mountain rescue services are being trained up to conduct precipitate deliveries. That is absolutely outrageous. Having a child—

Euan Robson (Roxburgh and Berwickshire) (LD): Will the member take an intervention?

Carolyn Leckie: I do not have time.

Having a child is not a situation that women need rescuing from; it requires a supportive environment with skilled professionals and an environment that can be predicted. Still, that is my information; perhaps the minister can confirm that that is not happening, because I would be horrified if it was.

Mums have done an awful lot of work and put forward viable proposals for the retention of the Aboyne maternity unit and they should be listened to. I am concerned that there do not seem to be any proposals to increase the number of community midwives. I do not see how home births will be made a more available and realistic choice for mums if there are not enough community midwives to deliver them.

What is the philosophy that underpins NHS Grampian's proposals and the Executive's proposals on maternity care? I refer members back to the report by the expert group on acute maternity services. From what I hear of NHS Grampian's proposal, it does not fit consistently with the philosophy in the EGAMS report. I thought that we had moved on so that we treat childbirth as a normal life event but also provide women with emergency back-up where and when that is necessary.

The proposal seems to take us back decades. It gives women only the option of having their baby in a consultant-led unit without the right to control what happens to them in childbirth. It puts the control mainly back in the hands of men rather than putting it in the hands of women who are having babies. That is a backward step. I hope that the minister will reject NHS Grampian's proposals.

17:49

Mr David Davidson (North East Scotland) (Con): I congratulate Mike Rumbles on securing the debate and am delighted to support him, as I have done since the issue first arose. More important, I congratulate the ladies and their families who have come down from the north because doing so is a challenge for them. They have been persistent in Fraserburgh, Peterhead and elsewhere in the north-east, where families have marched in the streets and received support from the press and almost every member of the Scottish Parliament.

We are supposed to have a national health service, so, within reason, one should have a high level of services and choices regardless of where one lives. Unfortunately, Nora Radcliffe missed the point. It is not a case of either/or. If older people need to be supported or diagnostic tests are required, the health board also has a responsibility to deliver such things. There is no simple choice.

The health board has talked about sustainability. It is simply saying that it needs money. It must be responsible, but the question of sustainability is difficult. When the minister gets round to the next stage of the Arbuthnott process—or whatever it is to be called—I ask him please to consider the underfunding of some of our health services. In particular, I refer to NHS Grampian, which is poorly supported, but he should also consider NHS Lothian. We need to ensure that enough resources are available to deliver the care that is required.

The Kerr report made it clear that people should get access to services and support in the community. Choices should exist. Women might prefer home births or to give birth in the local maternity unit, or they may need to go into hospital because they have a problem. As Jean Turner rightly said, problems can be picked up early in hospitals.

We are supposed to live in a democratic country; if so, why have a consultation in which responses will be totally ignored? The health board says that it listens, but it does not even respond. I was at the meeting at which people were told that we would receive a quick response from the health board that would give its opinions, but we have not received that. That is a nonsense in this day and age.

If the health board has a problem because it cannot get staff or it does not have enough resources, it should be honest and tell us so—it should not faff about and say, "We'll close this and that." The birth rate in the Aboyne unit has doubled. Popular demand for the service exists—the statistics speak for themselves. People want the support that is provided—they want to use the unit. Why should it be taken away when people perceive it to be an absolutely super unit with dedicated staff? I have never met a mum who has delivered a baby in the unit who has been unhappy with the service that she has received. In fact, I have met mums who have wanted to deliver in it, but have had to go to Aberdeen for one reason or another, such as an emergency occurring.

I turn to the issue of Aberdeenshire's roads. There has been classic underestimation by the health board. Once, during a snowstorm, I took an hour and three quarters to drive from Peterhead to Fraserburgh in a big four-wheel drive. What chance would an ambulance have in such circumstances? The same comment applies to Deeside. In emergencies, the distances are too great. If paramedics came part of the way, that would help, or at least there would be an oasis of calm and support if a woman got into a maternity unit, which would help her family. I ask the minister to intervene vigorously in the matter and

ensure that the people of Grampian get the services that they deserve. If they do not, there will be no young families in our rural areas.

17:53

The Deputy Minister for Health and Community Care (Lewis Macdonald): I, too, congratulate Mike Rumbles on securing the debate. I have listened with great interest to what he and other members have said.

Alex Johnstone reminded us that the issues are important in the wider context of rural Scotland and because they relate to choices in health care and the provision of locally appropriate services throughout Scotland.

The motion highlights the consultation that NHS Grampian carried out on its proposals and how local people have taken part in the process. When I responded in a parliamentary debate last November, I emphasised my view that the opportunity to express views and influence decisions is an important part of an active democracy. That remains my view, and I am sure that all members share it. However, that engagement must include a willingness to consider all the relevant issues and to view issues and concerns within the wider picture.

Last year, the community health partnership in Aberdeenshire developed a range of proposals for service change and consulted locally on the matter. That is what we expect community health partnerships to do in building up locally responsive service developments from grass-roots level. Following the development of those proposals and that consultation, the CHP made its recommendations to the NHS board, which then carried out its own consultation and submitted its recommendations early last month. As has been said, those proposals will go to Andy Kerr and he will respond to them in due course.

It is important to recognise that NHS Grampian's recommendations are about the development in Aberdeenshire of a range of community-based services—including maternity services, as Nora Radcliffe stressed. They include proposals for extending and enhancing local services for older people and for moving a range of diagnostic services into communities where people will be able to access them more easily. They include specific targets for moving services out of specialist hospitals and into local communities. I believe that those measures will be broadly supported, and the principle behind them is in line with wider policy objectives.

Mike Rumbles: I am glad that the minister has mentioned that, as my motion is focused on maternity services. Everybody is pleased with what NHS Grampian is doing with diagnostic and treatment centres and services for the elderly. Nora Radcliffe failed to understand that point.

Lewis Macdonald: That is a good cue for me to move on to the issues around maternity services. The debate has focused on NHS Grampian's proposals not to continue to give women the option of delivering at four out of the five community maternity units. Peterhead is the exception, as was mentioned. There, the existing range of midwife-led services will be enhanced.

In considering the matter, Andy Kerr will look at the basis for the board's proposals, as has been mentioned. The board's proposals are based on its view on changes in local demography, birth rates, and so on. Its conclusion is that the current service pattern is not sustainable and that the resources that are currently used to provide the service could be used more effectively elsewhere. That raises the question of choice for local communities—a question that has been fundamental in the local debate.

As Shiona Baird said, childbirth is not an illness; it ought to be one of the most positive experiences in a person's life. That means that the way in which maternity services are delivered should be centred on the women, and service planners should take the wishes and interests of mothers into account in planning services.

It is important to remember that pregnancy and childbirth are not always a positive experience and are not risk free. People's choice must be informed by the best available evidence, including the evidence of risk not only of extreme circumstances, but of the skills of staff being eroded by their being responsible for an inadequate number of deliveries.

Mike Rumbles: I want to mention something that the minister has not referred to, and which nobody seems to be referring to because NHS Grampian has forgotten about it. A pilot scheme that was run by south Aberdeenshire community health partnership pioneered a new way of working with community midwives. It is not about having 24-hour cover in hospital.

Lewis Macdonald: That is a fair point. That pilot scheme was mentioned in our debate last November, as Mr Rumbles may recall. It replaced the previous pattern of 24-hour cover. In considering the board's proposals, Andy Kerr will want to consider the conclusions that were drawn from the experience of that pilot project.

The way in which NHS Grampian has addressed the balance between choice and risk is fundamental to the consideration that will be given to the proposals. That will include models of service delivery past and present. The proposals will also be looked at in the context of delivering for health and the work of the expert group on

acute maternity services. We will consider in detail the views that have been put forward by individuals and organisations throughout the area who have expressed an interest.

The matter of the alternative business plan has been mentioned. That is among the papers that will be in front of Andy Kerr for his consideration and it will be taken into account by him. As has been mentioned, Andy Kerr will meet Mike Rumbles and representatives of the campaign next week.

In the context of Richard Baker's speech, members will be interested to know that the Scottish health council has reported on the later consultation and is now satisfied that the process was adequate. Andy Kerr must now consider all the evidence—the board's proposals and the views of those who take a different view—and strike a balance between the concerns that have been raised and the necessity for a sustainable and properly delivered service. He will take all those considerations into account in reaching a conclusion, at which time he will report as quickly as possible.

Meeting closed at 18:00.

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