

MEETING OF THE PARLIAMENT

Wednesday 17 January 2007

Session 2

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Scottish Parliament

Wednesday 17 January 2007

[THE PRESIDING OFFICER *opened the meeting at 14:00*]

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 Maureen McIntyre from the Church of Jesus Christ of Latter-day Saints.

Maureen McIntyre (Church of Jesus Christ of Latter-day Saints): We read in Isaiah, chapter 32, verse 3:

“And the eyes of them that see shall not be dim, and the ears of them that hear shall hearken.”

Nine years ago, I established a charity to help educate underprivileged children in Mombasa, Kenya. Three months ago, we brought 25 of the 645 children we have in our schools to the United Kingdom on a singing tour. The tour was very successful, raising money for a much-needed orphanage. The people of Scotland took these little ones not only into their homes but into their hearts. In turn, they learned many values that we have perhaps lost as a nation. I will mention but a few of them.

One is integrity. Those children have very little in their lives. Some have parents, but some are orphans and are cared for by whoever will take the responsibility. Living in mud huts, they all know hunger. Walking many miles to start school at 7 am and finishing at 5 pm, every child dreams of owning a bicycle. However, when one family offered to purchase a particular boy a bike, his reply was, “Thank you, Madam. Could I perhaps have a goat instead, as a goat will benefit all of my family?”

A further value is respect. Another child, the youngest on the tour, aged eight, was asked which he preferred: Scotland or Kenya. With all the home comforts that he was experiencing and a full stomach, one would have thought that he would naturally have chosen the UK. Yet without hesitation, he answered, “Kenya”. The reason given was that children in Scotland do not obey their parents.

Another value is unselfishness. On checking passports, we noticed that one child had had a birthday the previous week. On inquiring with the boy why he had not told us of it, he replied, “Madam, I did not want to bother you as you were very busy that day.”

At the beginning of this year, let us look towards ourselves and be grateful that we live in such a wonderful country. However, let us not allow the affluent society in which we live to blind us to the values that are essential in our lives and the lives of the children of Scotland.

Oh that heads of Governments would always have eyes that see, ears that hear and hearts that feel, teaching integrity, respect and unselfishness. That is my prayer this day, in the sacred name of the master and redeemer of the world, even Jesus Christ.

Amen.

Protection of Vulnerable Groups (Scotland) Bill: Stage 1

The Presiding Officer (Mr George Reid): The next item of business is a debate on motion S2M-5338, in the name of Hugh Henry, that the Parliament agrees to the general principles of the Protection of Vulnerable Groups (Scotland) Bill.

14:03

The Minister for Education and Young People (Hugh Henry): I begin by reflecting on why vetting is undertaken. Every one of us would be appalled if children in Scotland were being taught by a sex offender or if care staff in homes for the elderly were serial violent offenders. No one in Scotland will forget the tragedy of Dunblane and the more recent horrific murders of the two little girls in Soham. In both those cases, the perpetrators had substantial access to children through work or regular volunteering activities. Both cases exposed critical deficiencies in employers' knowledge about their workers. Vetting is the means of closing off that gap.

The Protection of Vulnerable Groups (Scotland) Bill is about ensuring that, when we drop our children off at school in the mornings or when members of our family go into hospital or receive care services at home, we can be confident that the people with whom they come into contact do not have a history that indicates that they are not suitable to enjoy the trust that we place in them; confident that, if someone becomes unsuitable to work or volunteer with our loved ones, that information is passed on to and shared with the organisations with which they work or volunteer; and confident that those who are proven to be unsuitable to work with children and protected adults are prevented from doing so.

The introduction of the bill does not imply that we do not trust or value the hundreds of thousands of committed individuals who work and volunteer with children and protected adults every day. On the contrary, we know that the vast majority have their best interests at heart and play a valuable role in their care and development. However, we also know that a small number of people would do them harm if they could and would use the workplace—or the opportunity to volunteer—as a means of gaining access to their prey. The Protection of Vulnerable Groups (Scotland) Bill is about ensuring that all reasonable steps have been taken to keep such people out of the workplace, that our processes are robust and that we do not make Scotland's vulnerable groups a target.

I have not been deaf to the comments that there must be an easier way of finding a needle in a

haystack than subjecting every piece of hay to microscopic analysis. A magnet would certainly do the trick if all that was required was to identify the needles, but there are three key dimensions to robust protection. First, it is necessary to identify the information—conviction and non-conviction—that is indicative of unsuitability and/or may be relevant to a particular post that involves working with vulnerable groups. Secondly, there is a need to link individual members of the workforce to specific organisations, but we must recognise that people may have more than one role—for example, someone may be a teacher and a volunteer netball coach—and may move around the sector over time. Thirdly, there must be continuous updating to remove the bureaucracy of multiple disclosures and ensure that new information is reviewed. The vetting and barring scheme is designed to offer the most streamlined and efficient way of delivering on all those dimensions.

We do not start with a blank sheet of paper. In the past decade, we have used part V of the Police Act 1997 to establish a system of vetting the workforce, which has been delivered through Disclosure Scotland since 2002, and the Protection of Children (Scotland) Act 2003 to establish a disqualified from working with children list, which went live in January 2005 and now includes 131 names, with a further 39 people under consideration for listing.

Fiona Hyslop (Lothians) (SNP): The Protection of Children (Scotland) Act 2003 was passed at the tail end of the previous session of Parliament, before dissolution in 2003. Does the minister share people's concerns that if the Protection of Vulnerable Groups (Scotland) Bill is rushed through at the tail end of this parliamentary session, it might not be as robust as it should be?

Hugh Henry: I dispute the implication that the Protection of Children (Scotland) Act 2003 is anything other than robust. In the past three and a half years or more there have been no criticisms of it and no suggestions about how it might be improved. If Fiona Hyslop has any such suggestions, we would certainly listen to them.

The fact that we are at the end of a parliamentary session is not the key point. The issue is whether this is the right thing to do. I think that the bill builds sensibly and proportionately on the strong foundations of our existing vetting and barring processes. Last year, there were 310,000 enhanced disclosure checks. The bill does not introduce vetting and barring; it strengthens the existing regimes and minimises bureaucracy, thereby providing more robust and more efficient safeguards and protections. We want parents and carers, as well as children and vulnerable adults, to be confident that the individuals who work with

them are safe. The bill should make it easier for everyone—employers, employees, voluntary organisations, volunteers, parents and children—to ensure that that is the case.

I recognise that there would have been some merit in auditing the existing disclosure regimes before proceeding, but the gaps in the existing system are well known and understood. The bill implements the key recommendation of the Bichard report, which is underpinned by a solid and comprehensive analysis of the contributory factors that led to the tragic event at Soham. There seems little advantage in postponing action to address those factors when the safety of Scotland's children and protected adults is at stake and when we now have an opportunity to drive forward improvements in protection and cut bureaucracy. I am clear that we will keep the implementation and operation of the new vetting and barring scheme under close review and evaluate it at an appropriate point.

We must also ensure that Scotland does not fall behind. Westminster recently passed the Safeguarding Vulnerable Groups Act 2006, which makes similar provision for England and Wales and, eventually, Northern Ireland. We cannot allow cross-border loopholes to develop, thereby making Scotland a safe haven for those who would abuse vulnerable people. The bill will ensure cross-border integration, while ensuring that Scottish ministers are accountable for the new system. We need to progress the bill now to ensure that Scottish stakeholders can help to shape cross-border elements of the new system to meet our specific needs.

The bottom line is that the bill will make a real difference. It will create, for the first time in Scotland, a list of individuals who are unsuitable to do care work with adults. Once implemented, the bill will bring an end to the excessive bureaucracy of multiple disclosure checks, which have been the subject of much criticism in the existing disclosure regime. Employees and volunteers will be able to move around the workforce and the voluntary sector with much greater ease and without the need for form filling at every turn. Employers and volunteering organisations will know that, once someone becomes a scheme member, the central barring unit has reviewed any relevant information and considers that the person is not unsuitable. They will also have the reassurance that, if new information comes to light that suggests that there is cause for concern about one of their workers, they will be notified and issued with guidance about what steps to take. The public, and parents in particular, will know that more robust procedures are in place for ensuring both that everyone who, through work, comes into contact with vulnerable friends and family does not have a history of behaviour that suggests that they are

unsuitable and that the information is continually updated.

Successful implementation is the key to realising those benefits. We have engaged extensively with the full spectrum of stakeholder interests thus far and will continue to do so until implementation is complete. I know that there have been particular concerns about the possible impact of the bill on the voluntary sector. During deliberations on the Protection of Children (Scotland) Act 2003, the voluntary sector called for a single high standard of checking and safety for everyone who works with vulnerable groups, whether they are paid or unpaid and whether they are working in the voluntary, private or statutory sectors. I concur that a two-tier system is undesirable and could leave the voluntary sector vulnerable to becoming a hiding place for those who might harm vulnerable groups. That is why I fully support not differentiating the protections offered. Having said that, I recognise that particular care is required in implementing the bill's provisions in the voluntary sector, given the wide spectrum of voluntary organisations. The voluntary sector can be reassured that we have no interest in implementing a system that proves unworkable. That is why we will continue to engage closely with the sector to ensure that key concerns about implementation are addressed.

The Presiding Officer: You have two minutes left, minister.

Hugh Henry: I understand that retrospective checking has caused concern in some quarters of the voluntary sector. I further understand that, at a meeting that was held by Robert Brown earlier this week, it was made clear that no decision had been reached on how retrospection might be progressed and that the issue will be subject to further comprehensive consultation in due course. It was also made clear again that a process would not be adopted that was unduly accelerated or would be likely to have an adverse impact, in financial and administrative terms, on any particular sector.

In relation to scope, it is not the case that every person who volunteers will need to be checked. The scheme is for people whose normal duties involve access to children and protected adults. I am fully committed to ensuring that the right information, guidance and training are made available to support all sectors to implement the bill successfully.

I am grateful to the Education Committee for its endorsement of parts 1 and 2 of the bill. Although I recognise its concerns about part 3 of the bill, I was disappointed that the committee felt unable to support it. Given that the focus of the provisions was children at risk of harm, I strongly supported proceeding with provisions that make explicit what

is currently implicit good practice. However, I recognise the decision reached by the committee and intend to withdraw part 3 from the Protection of Vulnerable Groups (Scotland) Bill by lodging an amendment at stage 2. However, I am firmly of the view that the criticality of this area necessitates early action by a future Parliament and I hope that Parliament returns to the matter.

With the removal of part 3 at the request of the committee, I firmly believe that it is our duty to say yes to the Protection of Vulnerable Groups (Scotland) Bill, yes to a robust vetting and barring system and yes to those who need our protection most. I commend the bill to Parliament.

I move,

That the Parliament agrees to the general principles of the Protection of Vulnerable Groups (Scotland) Bill.

The Presiding Officer: I am sorry that I hustled the minister along. However, this debate and the subsequent debate are both very tight. If members could shave a minute off their remarks, that would be much appreciated.

14:14

Fiona Hyslop (Lothians) (SNP): This is the latest in a number of pieces of child protection legislation that have been put before Parliament. The Scottish National Party has consistently offered constructive support, in a non-partisan way, to the Government in this complex and sensitive area, and it is in that spirit that I make my remarks.

We have heard from the minister about the background to the bill. I add that I have some concerns that the English legislation, which is similar, was not subject to the same level of scrutiny as the Scottish legislation was. That probably reflects the fact that the Scottish system is more developed in its thinking, as recognised in the Bichard report. That means that we are perhaps more up front, critical and prepared to express doubt where it exists.

The Protection of Vulnerable Groups (Scotland) Bill is a complex bill. As a member of the committee that examined the bill at stage 1, I was interested to note the spectrum of concern about this area of policy. Given that so many organisations that work to support and protect children are calling on the minister to delay or withdraw the bill, it is clear that there is a real problem. Even today, Scotland's commissioner for children and young people is saying that the minister should withdraw the bill and do further work on it. Other organisations state that it should be delayed until the Protection of Children (Scotland) Act 2003 is reviewed. They make a strong case. The minister himself said that there

are gaps in the POCSA legislation, and it is clear that it is not as robust as it should be.

In the end, the decision on how to handle and manage the process of making law is a political decision. The minister would have our support if he decided to take the bold decision to withdraw the bill and make a fresh start, knowing that whoever is in charge of the Executive after the election in May will be in the same boat and will need to improve the law on the protection of vulnerable groups. Given that the commencement of much of the bill will have to be delayed while secondary legislation is drafted, withdrawing the bill would not make much difference to when the new law will take effect.

However, the SNP agrees that the proposed scheme could be a better approach to vetting and barring than the problematic POCSA regime. Many voluntary organisations support the proposed scheme, which will streamline bureaucracy and reduce the number of requests for repeat and multiple disclosure checks from small organisations. We recognise that those aspects should be progressed now.

We have a real problem in this country with the way in which we manage relationships between adults and children. We desperately need a public debate about the risks to children in our society. That debate should consider what the risks are; how we can minimise them, given that we can never eliminate them; how our society can live with risk and deal with it proportionately; and how we educate our children to assess risk. It should also consider how we make sure that everyone is equipped with common sense about how to be vigilant to risk and to take action when risk is likely to become a threat. The SNP is prepared to support such a debate, which should be held in the media and in our schools. It is also a prime candidate as a topic for our new parent forums. That debate is not about legislation but about policy and practice. Laws do not protect children—adults do.

I welcome the minister's willingness to drop part 3 of the bill and deal with the matter in future legislation on children's hearings and related matters. Again, it is policy, culture, change and practice that are important. Part 3 might have been counterproductive because it might have driven vulnerable children away from seeking advice and support. Given that the vast majority of abuse is by family and friends, we have to judge risk proportionately.

I trust that the minister has Mr McConnell's support for dropping part 3. All parties are committed to improving the provisions on people's duties and responsibilities, but the desire to create criminal offences in the area could be counterproductive because it might create a back-

watching charter for professionals at the expense of children's welfare. That would turn the bill into a protection of vulnerable organisations bill. A witness who is involved in child protection told the committee in evidence that that is an alternative interpretation of the bill. None of us wants that to become the case, so the minister's approach and his willingness to drop part 3 are welcome.

I support the committee's strong view that the bill should not proceed to stage 2 until the committee is satisfied that information on the subordinate legislation has been provided. I thank the minister—and the deputy minister, in particular—for promising to provide that information. We look forward to seeing the substance of the promise. I hope that the minister appreciates that the committee must reserve judgment until we read the information.

I have some specific areas to cover. We need training, and we most definitely need clear definitions. What about 16 and 17-year-olds? How should they be covered? Vulnerable adults are in danger of becoming a Cinderella group under the legislation because of the controversy about the other aspects. That must be addressed. I am also concerned about retrospection, which is a double-edged sword. We do not want to penalise voluntary organisations, but if we do not have retrospection, we will take a risk in relation to people who are already in the system. That would call into question the system's validity.

There are questions about costs and information technology systems. The Finance Committee's criticisms are well made, but I recognise that the new, simpler vetting and barring system should reduce the number of disclosures—and particularly the number of multiple disclosures—in the long term. We should bear that in mind.

The bill is a small, technical part of child protection. It should not be treated as the key, fundamental part of child protection. It is necessary, but it is not an absolute guarantee of child safety. It provides the means to record whether somebody has a history of activity that makes it inappropriate to employ them to work with children and vulnerable adults, but it will not predict whether people with no such history who are members of the scheme will harm children in the future.

The bill is about adults' past. Our main child protection measures must be about children's present and future, which means that we must be vigilant and use common sense and that there must be support. We want adults to work enthusiastically with children, and we want a society in which relationships between adults and children are healthy, honest and positive. In that spirit, the SNP will support the general principles of the bill.

14:20

Lord James Douglas-Hamilton (Lothians)

(Con): Two good speeches have been made. All members accept that children and vulnerable adults are among the most fragile members of our communities. Therefore, we have a particular duty to go the extra mile to protect them from harm. In that context, I applaud the bill's overall intentions, which are admirable.

The Parliament has already made progress in the area by passing the Joint Inspection of Children's Services and Inspection of Social Work Services (Scotland) Act 2006 and the Protection of Children (Scotland) Act 2003. However, members have differed from the Executive on the issue of taking enough time to have sufficient consultation with all relevant and legitimate interests. We prefer legislation that is based on sure and certain foundations and that will not have to be amended a few years later, although it may take a little longer to deliver. Some provisions in the Protection of Children (Scotland) Act 2003 will be superseded without evaluation or even implementation having occurred. Furthermore, much is being left to secondary legislation rather than provisions being included in the bill. We are concerned that the Executive is asking us to take a good deal on trust.

I welcome the decision by ministers not to proceed immediately with the provisions in part 3 of the bill. Of course I recognise that the importance of the issue in question is a reason to act, but it is also a reason not to rush. All parliamentarians—what I say applies to me, too—must be mindful of the example of the Gadarene swine in the Bible, whose frenzied activity was such that they made the mistake of running over a cliff. I am glad that parliamentarians and ministers may have taken note of that cautionary tale; if ministers have done so, they will not proceed in haste and repent at leisure. Ministers are right that action must be taken, but that action must be appropriate and must be taken after full professional consultation with interested parties. The information-sharing provisions will be better drafted and better received by the bodies that are charged with implementing them when those provisions are reintroduced in a later bill. A strong minister is a minister who can make necessary concessions; a weak minister cannot. The minister will not live to regret anything that he has said today. His speech will be much appreciated.

The new vetting and barring scheme is the essence of the remainder of the bill. I want to deal with three issues in that context: the scope and proportionality of the scheme; the need to keep bureaucracy under control; and the protection of voluntary bodies and charities from excessive costs.

The proposed scheme will vet more than 1 million people, or one in four of the population. The Executive thinks that around 40,000 volunteers are currently checked each year. The Scottish Council for Voluntary Organisations thinks that the new scheme will force 850,000 people to be background-checked during the phasing-in period. Recently, I was told about parents of children with special educational needs being subjected to enhanced disclosure checks simply to be allowed on to a bus to fasten their children's seat belts.

The people to be caught by the proposed scheme lie along a wide spectrum, from nurses and social workers right down to volunteers who have little unsupervised conduct with the vulnerable people with whom they work. The potential for risk differs from case to case, but the vetting and barring arrangements may end up being used identically. In order to avoid unnecessary vetting, considered improvements to the definition of "regulated work" would be welcomed. There should also be clear guidance from the Administration, and the Education Committee should be allowed to see and comment on that guidance before it is issued.

A danger of widening the net, increased bureaucracy and retrospective checking is that people may be discouraged from volunteering. However, many children depend on adult volunteers. Jeopardising things for the many must be weighed against the prospect of serious harm to the few. The clerks summed up well, in one sentence in paragraph 3 of the report on the bill, what the Education Committee thought. That paragraph states:

"Protection of children is, of course, vital, but it must not come at the expense of their welfare and their right to experience a rich and stimulating childhood."

What the Executive calls dynamic updating will allow a reduction in repeat disclosure checks while simultaneously diminishing the level of risk. I therefore accept that the bureaucratic burden should be lowered once the phasing-in is complete.

I believe that the removal of part 3 is extremely important. When ministers do the right thing, they should be congratulated even if they may have needed a bit of enlightened persuasion along the way. The new vetting and barring scheme will provide more comprehensive protection, which we support. However, we hope that every effort will be made to ensure that voluntary organisations and charities are not disproportionately disadvantaged in the process.

On the basis that ministers will act as parliamentarians of good will, paying heed to our concerns, we will support the bill. When we first met in this chamber, the First Minister said that he

hoped that the opportunity for us to raise our game would be taken. I hope that that will be done in the next stage of the bill, as I believe that there is room for further improvements. What we want is not a victory, but a success.

14:26

Euan Robson (Roxburgh and Berwickshire) (LD): It is one of the fundamental duties of society to protect its most vulnerable members; therefore, no one could object to a bill that genuinely sought to do that—a bill the principles of which were directed to such an end. I believe that this is such a bill. In its preamble, it talks about protecting children and certain adults from those who would harm them. It is for that fundamental reason that Liberal Democrats will support the bill today.

As other members have said, the bill is primarily a response to Sir Michael Bichard's report on the horrific murders in Soham. We should not, however, overlook the fact that it is also born of the experience of cases of the abuse of vulnerable adults, one of which infamously occurred in the area that I represent. A further motivation is a dissatisfaction with the system that has come about as a result of the Protection of Children (Scotland) Act 2003. To anyone who says that we do not need to proceed with the bill today because we have the so-called disclosure system in place, I say that we must signal our collective intent to replace it with a streamlined, less costly and less bureaucratic set of procedures that have the effect of improving child protection. Also, if we did not proceed with the bill today—if it was to fail at stage 1—we would fail to begin to introduce the protection for vulnerable adults that is clearly necessary.

That is not to say that the bill, as introduced, is all that it should be. I am afraid that we are some considerable distance from that being the case. Although I note what the minister said about the removal of part 3, I add a note of caution. Past experience of child protection and vulnerable adult cases has underlined the importance of appropriate information sharing among responsible agencies. In certain cases, information being in the hands of one agency and not finding its way to another agency has forestalled an appropriate intervention. Joint action is often required, and many tragedies have occurred when there has been a lack of co-operation between agencies. Parliament must return to the issue before too long and produce proper and appropriate guidelines for the sharing of information to ensure that we do everything to avoid a repeat of the experiences of past cases.

The bill is complex and perhaps suffers from the interweaving of the often complementary but sometimes different requirements for the

protection of children and the protection of vulnerable adults. That derives from the decision not to incorporate vetting and barring into the Adult Support and Protection (Scotland) Bill. Nevertheless, even at this stage it might be worthwhile for ministers to consider separating the two sets of requirements into different parts and chapters of the bill. The purest method of the parliamentary draftsman might not necessarily produce the clearest of texts for the layman, so I offer that particular suggestion to ministers.

In the few moments I have left, I want to touch briefly on retrospection. Provisions to require retrospective checking under the Protection of Children (Scotland) Act 2003 were not commenced, partly to ensure a phasing-in period, especially for voluntary organisations. It was also to allow time for risk analysis. If, as a result of this bill, retrospective checking is to be used, I strongly suggest that the Executive pays to undertake a trial with a range of willing organisations to find the scale of any potential risk that—intuitively—must reduce the longer the period of employment or engagement in any activity. We need evidence of risk before proceeding with retrospective checking. We should introduce the principle of retrospective checking into the legislation, but let us not commence it until we are clear that there is an identifiable risk.

The principle of protection is of overriding importance. The bill is part of the Executive's welcome child protection programme. That, and the added protection for vulnerable adults, means that we must make progress today. The new vetting and barring is a welcome objective, but we have much to do to get this legislation right and I am sure that the committee will lodge several amendments, as will ministers, to ensure that the legislation will be fit for purpose and will achieve its objectives.

14:31

Iain Smith (North East Fife) (LD): I welcome the opportunity to speak on behalf of the Education Committee in today's debate.

The committee grappled with the complex issues raised by the bill, and I believe that we produced a balanced report that addresses the range of concerns that were raised with us during our stage 1 inquiry. I take this opportunity to thank the many organisations that gave the committee written or oral evidence, the diligence of my committee colleagues in considering that evidence, and our excellent clerking team for its assistance in producing our stage 1 report.

As we have heard this afternoon, this is not a party-political issue. That is reflected in the stage 1 report, which was agreed unanimously and without

a single division, although there were some robust debates on our recommendations. The committee was as one when we said:

"The welfare and best interests of children and young people are the Education Committee's paramount concern".

That is reflected in the time that the committee has dedicated to child protection during this parliamentary session.

The committee is also clear that child protection is only one part of safeguarding and promoting the welfare and best interests of children. As the children's commissioner, Kathleen Marshall, put it:

"Children have a right to protection, but they also have a right to develop, to access leisure and recreation and to form relationships ... this is a question of risk management and proportionality."—[*Official Report, Education Committee*, 22 November 2006; c 3797.]

We need to ensure that we are not setting up a system of child protection that sends the wrong messages about risk and, equally important, does not paralyse people who want to do good work with children. Let us not forget that the vast majority—more than 85 per cent—of children who are abused are abused in their own home by close relatives or close family friends. Very few are abused or are at risk of abuse by those who work with children, although there are no absolute guarantees.

Of course, everyone agrees that those who present a real danger to children or vulnerable adults should be prevented from working with them. However, we must ensure that both the risk that the person represents and the situation in which the person is working are properly assessed. For example, a parent who, along with others, is helping to supervise the school disco—an infamous case during the committee's inquiry—is clearly less in a position to present a risk to children than an adult who has frequent, prolonged or physical contact with children or vulnerable adults with no other adult present, such as a teacher, care worker or doctor.

In addition to the seat belt case that Lord James mentioned, the committee heard evidence of a case where two senior pupils were denied a trip to the mainland because only a male worker was available to accompany them, and the council policy required that male staff could not be alone with the pupils, despite the fact that those staff had probably already gone through the checking system.

We also heard that some sports and arts clubs restrict membership to over-18s to avoid being caught up in the system, that parents who want to help to supervise a school trip are sometimes asked to undergo a full disclosure check and that a 14-year-old who volunteered to be minute

secretary for a community council was refused because of a concern that the council would then fall within the ambit of the legislation. Clearly, many of those examples result from a wrong interpretation of the existing law, but they show what happens if public bodies and organisations take a risk-averse approach. As Fiona Hyslop mentioned, we do not want a protection of vulnerable organisations bill.

On the committee's specific concerns, we are pleased that the Executive has accepted our key recommendation that part 3 of the bill should be dropped to allow for full consultation with stakeholders. No one disputes the importance of appropriate information sharing between professions, where that is necessary to protect a child's welfare. However, an unspecified duty might result in inappropriate information sharing that might harm children's welfare. For example, a child might choose not to seek advice on sex or drugs-related issues because of the fear that the information might be passed on to the police.

I welcome the ministers' commitment to provide, ahead of stage 2, pre-consultation papers on some of the key areas of concern. Whether that will be sufficient to meet the committee's concerns will be for the committee to consider if the bill proceeds to that stage. I anticipate that we might wish to take further evidence before commencing our consideration of amendments. I also think that ministers should consider a number of issues of detail before we reach stage 2.

Although the committee spent less time considering issues surrounding the protection of vulnerable adults than it perhaps should have, a key issue is the definition of what constitutes a protected adult. At present, the bill defines such adults in relation to the receipt of services rather than in relation to protected adults themselves. I hope that the definition in the bill is consistent with the definitions in the Adult Support and Protection (Scotland) Bill, which—I agree with Euan Robson on this—might have been a more appropriate place for those provisions.

A related concern is how the bill defines what is a child and what is an adult. It seems inconsistent to have an overlap, as is currently the case. I am not convinced that there is not a case for defining a child as someone who is under 16 rather than under 18. I would welcome some clarification from the minister on the rationale for the current definition and on whether unforeseen consequences might result from changing the definition of "child" to mean someone who was under 16 rather than under 18.

I have considerable concerns about the use of non-conviction information. I doubt that anyone would object to the use of such information where there was clear evidence of a pattern of behaviour

that indicated that a person presented a real risk to children. However, in some cases, when people have been wrongly accused and charged with an offence on which proceedings were not taken, because they did not have the chance formally to clear their name in court, information about the charge has still appeared in vetting information on an enhanced disclosure certificate. There must be clear opportunities for individuals to challenge such information. In my view, such provision must be included on the face of the bill.

Although there are several other definitional issues that I cannot go into because of lack of time, I will highlight the fact that we do not want the bill to deter volunteering. We must ensure that people do not avoid volunteering because they fear that a relatively minor incident in their past might be dragged up and become public knowledge. We must also ensure that those who administer voluntary schemes, such as management committee members, are not put off by the complexities of becoming involved in personal matters.

I am pleased that ministers will look carefully at the costs involved in the retrospective checking for vulnerable groups. I also hope—

The Presiding Officer: You must be brief.

Iain Smith: Briefly, ministers need to look at what is meant by working with children and vulnerable adults. We need to ensure that we do not end up with the school disco situation that was mentioned earlier.

I also hope that ministers give further consideration to whether the central registered body in Scotland can provide more assistance to voluntary organisations.

Despite the committee's concerns, I hope that the Parliament will approve the general principles of the bill at stage 1, although we may need to come back to the issue before stage 3.

The Presiding Officer: We move to open debate. If members can confine their remarks to five, rather than six, minutes, that would be helpful to the management of both this and the subsequent debate.

14:38

Dr Elaine Murray (Dumfries) (Lab): As a member of both the Finance Committee and the Education Committee, I approached the bill with a number of significant reservations on the basis of the evidence that the Finance Committee had taken.

The Finance Committee was concerned about the number of individuals who seem likely to be captured in the vetting and barring scheme once it

becomes fully operational. Although the minister compared the task to looking for a needle in a haystack, we were a bit concerned that the bill treated all the hay as needles. We also worried about the accuracy of the financial memorandum regarding the costs of implementation, the setting up of the scheme and the costs to the voluntary sector. We asked whether there was sufficient money available to ensure that the scheme could be operated effectively. In addition, we were concerned that individuals such as relatives could be put off helping out at events on a casual basis for fear that the organisation that was being helped would be breaking the law if the individuals were not covered by the scheme. We were also concerned that people would be put off volunteering.

As other members have said, the evidence to the Education Committee was contradictory. The statutory sector was extremely enthusiastic about all sections of the bill and urged the committee to proceed with them all. The trade unions—the Educational Institute of Scotland and Unison—were generally in favour, although Unison was a bit worried about provisions that meant that a malicious employer could make an allegation about the behaviour of an employee who had left that could end up being reported to the scheme.

Voluntary organisations welcomed the passporting proposals, which would mean that they were no longer required to have multiple disclosures, as under the current system, but they were concerned about the cost and whether volunteers might be deterred. However, they saw the bill as an improvement on POCSA. We must acknowledge that some of the proposals will certainly be a significant improvement on the current situation.

The commissioner for children and young people, Children in Scotland and Children 1st asked us to have the bill withdrawn. They wanted a review of POCSA and believed that the bill was a disproportionate response that would contribute to a risk-averse culture. However, we must acknowledge that those organisations did not consider the situation of vulnerable adults, as Euan Robson said. If a review were undertaken, the vulnerable adults provisions would also be lost.

As has been said, the greatest concern was about part 3. That is not because there is not support for sharing information. I say that as somebody who is from Dumfries and Galloway, where a very young girl—three-year-old Kennedy MacFarlane—was able to be murdered by a step-parent because the statutory agencies did not share information. Nobody is against sharing information, but some voluntary organisations are concerned that if they are obliged by law to share

information, children and vulnerable adults who have been abused and who wish to disclose that in confidence to those organisations, could be deterred from doing so. That is why we have asked for that provision to be removed, so that we can consult on the issue. We hope that the provision might be reintroduced, possibly as part of the getting it right for every child proposals. My colleague Marilyn Livingstone might say more on that issue.

We would have liked more time, but we are where we are in the parliamentary timetable. I acknowledge that it is important that the vetting and barring system in Scotland is coherent with that south of the border, so that nobody slips through any holes between the systems in the two countries.

Guidance that is as strong as we can make it is needed on who should and should not be in the scheme, to prevent the risk-averse behaviour that Lord James Douglas-Hamilton described, whereby a council refuses to allow somebody to fasten their child's seat belt if they do not have enhanced disclosure. That is happening under current legislation, not because of the bill. We need to tighten the position to prevent silly, risk-averse behaviour by councils and other organisations.

The voluntary sector is concerned about retrospective checks. Is it possible to introduce them in secondary legislation, to allow Parliament and the committees to have another look at the provisions before they are implemented? That would allow some consultation of the voluntary sector on how and whether that could be handled. I would like ministers to consider that.

I agree with other members, including Fiona Hyslop, that we need to consider the risk-averse culture, which involves not just legislation but litigation. We cannot become a society in which children are not allowed to do anything just in case something happens. We will never be able to legislate to remove all risk, particularly as people who wish to harm children and vulnerable adults may use their children or their friends to access children. We cannot prevent everything awful that could ever happen to a child. We do not want to destroy children's quality of life by being so frightened that something might happen to them that they do not have a normal childhood. I would like the Executive to lead on something to counteract that risk-averse culture.

14:44

Mr Kenny MacAskill (Lothians) (SNP): I echo James Douglas-Hamilton's comments. Credit must be given where credit is due and that is not simply for the speeches that have been made. All parties—not simply the political representation, but

the Executive and the committee—have sought at today's stage 1 debate and throughout proceedings to work towards a solution, notwithstanding the timetable and the juncture that we are at in the political calendar. It is accepted that the issue is too important to be made into a political football, so it brings credit to the Parliament and to all involved that we attempt and desire to work out the correct solution for the people of Scotland and not simply to score party-political points.

We have to consider not simply where we will be at stage 3, but the current context, and we find ourselves in a difficult situation. In introducing the bill, the Executive seeks to balance a multitude of things. In some, there is a synergy that involves protecting youngsters. However, there is also a dichotomy because, at some stage, we reach an impasse between seeking to protect by legislating and imposing restrictions while, at the same time, seeking to maintain our society and the important aspects of volunteering that other speakers have commented on.

We are seeking to introduce laws at a time of cultural and societal change. Those changes have not only taken place over recent years, but are taking place under our feet, and they all have an impact on the legislation that we create. That is why it is important that we take time to analyse proposals that we introduce and ensure that they are appropriate and flexible. We must be prepared to take a broad view of matters.

There are great difficulties in legislating, but it is obviously important that we protect youngsters. No political party and no Government in Scotland would ever seek to leave not simply youngsters but vulnerable adults open to being preyed upon or abused, so we need to legislate. It is also important that we acknowledge that the Parliament, other legislatures and our predecessors have introduced necessary legislation as a result of appalling incidents and to try to address obvious lacunae. To some extent, the bill seeks to bring such measures together, if not achieve some consolidation. That is appropriate, as various measures have been introduced and had an effect over five or 10 years, at the same time as significant social change.

We all know about the effect of an aging society. We have debated it in the Parliament and the futures forum has reported on it. It has an effect on how we deal with youngsters and how the generations interact. Some of those matters come round perpetually; there will always be a generation coming through that questions matters and an older generation that is more sceptical.

However, there is a danger that we will go too far, which is why we must ensure that we get the balance right. If we do not get it right and impose

too much through legislation, we will run into difficulties. We have to take into account the other social and cultural changes. As Fiona Hyslop and others said, we will never be able to guarantee a risk-free society. Unfortunately, we are human and our society includes people who will transgress and commit horrendous acts, so we have to ensure that we have appropriate laws. However, as Fiona Hyslop said, laws are not the fundamental problem and will not offer fundamental protection, although we must have them; the fundamental issue is the relationship between adults and the youngsters or vulnerable adults upon whom they may prey or who they may seek to abuse.

It is to the Executive's credit that it is prepared to make substantial changes to the bill. The Scottish National Party welcomes the general principles of the bill. We recognise that it is necessary and we recognise the difficulties—life is much more complicated than it used to be. We must acknowledge the importance of volunteering to our society and the importance of maintaining the relationship between the older and younger generations. It is sad that that relationship has, to some extent, broken down. Lord James Douglas-Hamilton mentioned the difficulties, about which we have all been e-mailed, with putting a seat belt on a youngster in a bus. To be frank, we did not legislate to bring that situation about, so it is clear that something is wrong. We can argue about whether that is a correct interpretation of the legislation but it reflects the society that we have created.

Volunteering is important. The problem is not simply the legislation that we have introduced. There are other factors, such as the 24/7 society, the dislocation in families and Saturday fathers. Those all have an impact, but we must ensure that any legislation that we introduce to try to protect youngsters does not make matters worse, not only for volunteers but for the relationship between generations. That is why we welcome the commitment to withdraw part 3. We think that matters can be discussed and, as the general tenor of the debate shows, we can reach a solution together.

14:49

Robin Harper (Lothians) (Green): I congratulate members of the Education Committee on the huge amount of work that they have already done on the bill, and I apologise for my impetuosity in lodging a motion to get rid of part 3 just before—rather than just after—the report was published. I hope that my apology is accepted.

I and members of my party are as keen as anyone else in Parliament that vulnerable groups

receive all the protection that can properly be afforded to them, but we have been reading the evidence from across the board—particularly from organisations such as Children 1st, Children in Scotland, Scotland's commissioner for children and young people and the Law Society of Scotland. We are concerned that there is, between now and dissolution, not enough time to bring the bill to the finished state in which we would like it.

Iain Smith has already admitted that the committee should have spent more time on the part of the bill that deals with protection of vulnerable adults—we have not spent as much time on that as we should. The children's commissioner expressed the opinion that an audit of current legislation and practice must be instituted before the bill is progressed. She acknowledged that that would inevitably entail delay in the progress of the bill, but believes that such delay would be worth while in the long term in order that we can ensure that we devise a system that takes account of the risks that are posed to children and vulnerable adults, and which can respond appropriately and be implemented consistently and fairly. That is obviously what we want.

The Minister for Education and Young People himself has said that the Executive has no interest in implementing a system that would prove to be unworkable, but the fear in many quarters is that there is simply no time to produce workable legislation. In his opening speech, the minister mentioned the position of the children's commissioner, but stated quite clearly that he feels that an audit would delay progress. There is a clear difference of opinion—I am afraid that I side with the commissioner.

I expect and hope that every party in Parliament wants the bill's passage to be completed by Christmas. If we approve it at this stage, however, there will be tremendous continuous pressure to have it finished by Easter. Why cannot we wait until Christmas? It is not that long. There is no great urgency to pass the bill and I do not foresee anything dreadful happening between now and Christmas as a result of the delay. However, I can see that by passing a bill that is not fit for purpose we will deny ourselves the chance to do real good.

The Deputy Minister for Education and Young People (Robert Brown): Does Robin Harper accept the view that was expressed to me by the voluntary sector, that it is the retrospective element of the bill that gives rise to most concern? The Executive has said that it will consult on whether, when and how the retrospective section will be implemented. Other than that, it is a matter of dealing with the same sort of numbers in an improved scheme. That is the essence of the bill.

Robin Harper: I accept that that is one of the views that was expressed by the voluntary sector,

but I repeat that the children's commissioner would like to have an audit before things go further, but I simply do not think that there is time for a thorough audit before we get to that stage.

Will parents understand the Disclosure Scotland website? What if they do not even use websites? Will having a statement put people off because they do not understand the system? I know that we need a proper system to ensure that those who wish ill on vulnerable individuals are barred from having contact with them; that will end up being quite a complicated system.

I do not believe that the bill has been properly thought through. The Executive has abandoned part 3, but everybody expects its provisions to reappear in legislation that will follow another set of Executive consultations.

The Green party is in a bind: we support the general principles of the bill but we do not want the bill to proceed further just now because we would prefer that much more time were spent on it. We will probably abstain in the vote later this afternoon.

14:55

Mr Andrew Arbuckle (Mid Scotland and Fife) (LD): I fully support the recommendations that arose from the Bichard inquiry. They came at the right time and cannot be classified as a knee-jerk reaction. There has been time to ponder and consider.

Politicians have a responsibility to ensure that legislation neither diminishes nor disadvantages the voluntary sector. As Kenny MacAskill rightly said, it is a question of getting the balance right.

A few years ago in Fife Council, I heard a councillor comment on changes to support for voluntary organisations. The councillor said that volunteers

"would just have to accept the changes."

The paradox that volunteers do not have to do anything did not seem to have crossed that councillor's mind.

We have to be conscious of the effects that the Protection of Vulnerable Groups (Scotland) Bill could have on people such as the people who turn up on cold winter nights to coach youngsters in myriad sports. Many of them started out as coaches or trainers because their own children were going along, so rather than simply stand on the touchlines or at the poolside, they offered to help. For many people, that offer of help has extended beyond the initial period when their own offspring were involved; I belong to an athletics club and some of the coaches are now training a second generation of youngsters, such is their

love for the sport. All that work is done with never a penny piece paid nor expected.

However, all voluntary work is as vulnerable as anything to unnecessary bureaucracy. Faced with additional paperwork or costs, many of the unpaid army might well decide that it is much simpler and much less stressful just to walk away.

I welcome the minister's assurance that the Executive will work sympathetically alongside the voluntary sector to ensure that this fragile part of our society will not be damaged. Any damage could be disastrous to our country. We could not fill the gap with paid support and we would, for example, end up with less sports coaching—which would lead to more obesity—and less involvement in the arts. I appeal to the Executive to keep regulations simple to ensure that the many small voluntary groups that do so much good work bear the lightest of burdens.

I welcome the proposed relaxation on retrospective checks, but I share Fiona Hyslop's concern that that particular part of the haystack may—and I stress "may"—include some needles. However we want to describe them, I am referring to people we want to remove from the vicinity of vulnerable children.

I support Euan Robson's call for a pilot to establish the scale of risk arising from those who have worked for decades with the young, the aged and the less able. That would be a sensible solution to a major problem.

Elaine Murray expressed some of her concerns. I am concerned about the lack of robust financial information on the bill. Inevitably, with major decisions still to be made through secondary legislation, it is difficult to be precise. The Finance Committee has made the point that it was being asked to

"scrutinise the costs of legislation where significant financial information will be contained in secondary legislation."

The Finance Committee also recommended that the lead committee—the Education Committee—further probe the bill's financial consequences. I am interested to note that the Education Committee feels that sound financial information is still lacking, as are examples of how secondary legislation will impinge financially on voluntary organisations. Everybody here realises that many groups in the voluntary sector operate on a shoestring and that additional financial burdens that arise from the bill will not be welcome.

The financial memorandum estimates a turnover of £30 million in Disclosure Scotland in the first three years. That figure is based on there being 500,000 applications each year. The financial memorandum also mentions an additional cost of up to £5 million coming from various sports

bodies, arts organisations and other parts of the voluntary sector. The aims of the bill are admirable, but I remain concerned about its implementation and about its cost to voluntary organisations.

15:00

David McLetchie (Edinburgh Pentlands)

(Con): There is a legal maxim that hard cases make bad laws. Essentially, we are being given a warning not to generalise from the particular and not to take one case, however appalling it might be, as the sole foundation for a whole new raft of laws and regulations that may not be just disproportionate to the real risk, but might also pose a threat to civil liberties, spawn injustices of their own and produce wholly unintended consequences. Good intentions do not always make for good laws.

The genesis of the bill lies in the horrific murders of Holly Wells and Jessica Chapman and the subsequent inquiry that Sir Michael Bichard held into the procedures for vetting and assessing the suitability of persons to work with children and vulnerable adults, whether on a professional or voluntary basis.

It is interesting to consider how divided opinion was in the both the written and oral evidence that was submitted to the Education Committee. Broadly speaking, public sector bodies—the local authorities, health boards, professional organisations of public sector employees and the police—are in favour of the proposed vetting and barring scheme. In fairness to them, by creating a more cohesive and consistent approach, the scheme may be an improvement on the system that was established under the Protection of Children (Scotland) Act 2003.

In all this, one cannot escape the feeling that a substantial measure of covering one's own back is involved. Process and procedures seem to have been given a status that they do not deserve—it seems that what matters is ticking of boxes. Couple that with the unfounded belief that all that has to be done wholly to eliminate any vestige of risk is to make the vetting and barring procedures even more elaborate and wide ranging and the question remains: what will happen if an unsuitable individual slips through the net of scrutiny? I fear that another attempt will be made, in vain, to regulate risk out of existence by way of the passage of still more laws, the establishment of further regulatory bodies and/or recruitment of additional staff.

In contrast, those who are opposed to the bill either in principle or in detail are voluntary sector organisations, which rightly raised the issue of proportionality, and others—such as the Faculty of

Advocates—which questioned whether the measures will be effective. In part, that opposition came about because the Executive has left so much of the detail of the operation of the scheme to subordinate legislation that is yet to be introduced.

A truly staggering number of people are to be vetted under the measures—more than 1 million employees and volunteers. We need to compare that figure with the number of individuals who are on the present list of those who are disqualified from working with children, who number a mere 131. There are valid concerns that circulation of inaccurate so-called soft intelligence on individuals could effectively bar people, without justification, from working in a number of occupations or as volunteers. A pernicious combination of safety-first recruitment policies and no-smoke-without-fire attitudes could have that result.

I will support the bill at stage 1. I do so on the recommendation of my friend James Douglas-Hamilton and his colleagues on the Education Committee, whose consideration of the proposal was in greater detail than the consideration that I was able to bring to bear on the subject. I suspect that all of us would find it hard to forgive ourselves if we omitted to take action, or if we were to pass a law that, in hindsight, could have prevented a horrific case such as the Soham murders from taking place in the future.

That said, a wider public debate on the issues is needed. We are in the grip of something-must-be-done syndrome. Despite all the evidence that has been accumulated to the contrary since time began, we are becoming a society that has an irrational belief in the perfectibility of man and human institutions.

Euan Robson *rose—*

The Deputy Presiding Officer (Trish Godman): One minute.

David McLetchie: I am sorry, but I have to finish.

We have to think seriously about the road down which we are going so I am encouraged that the Education Committee highlighted that concern in its report. I am also encouraged by the speeches that we have heard today. I hope that the operation of the legislation will be kept under very close review by the Executive and Parliament.

15:05

Ms Rosemary Byrne (South of Scotland) (Sol): I welcome the debate—in particular the minister's agreement to withdraw part 3 of the bill. The Education Committee worked well and the minister listened. That is a good example and is an approach that we all welcome.

Members will agree that all children and young people should be protected from individuals who might harm them in any way. However, we should note that child harm and abuse are committed overwhelmingly by adults whom the child knows personally and not by strangers or providers of children's services. It is therefore pertinent to stress that, although the bill is important, we should guard against complacency and the creation of a false sense of security. One of my major concerns throughout the evidence-taking sessions in the committee has been that people will believe that we have tied up the loose ends and ensured that there can be no risk. We can never eliminate risk.

It is therefore extremely important to put resources into education. We must ensure that appropriate funding is put in place to educate children, young people and adults on how best they and our communities can play their parts in protecting vulnerable people. Resourcing of services is key and will help organisations and individuals to take a lead in training in how to be alert to identifiable risk factors, and in how to deal with, and alert services to, such issues. Such training, in conjunction with exchange of information among bodies and organisations, is crucial. I hope that the minister will tell us about the resources that will be put in place. That is a far more important way of dealing with the issue.

Scotland's commissioner for children and young people has said, rightly, that we cannot create a regime in which children and young people are not allowed to do anything. We have to be able to give young people the space in which to develop as individuals, without wrapping them up too much. However, we must also take responsibility for their protection very seriously. The way forward is not just through good and sound legislation, but through strong education.

I welcome the proposed changes to vetting and barring, which will create a system that will be less complicated than the current arrangements. The streamlining of the system, by moving from multiple disclosures to a single list, is welcome. Implications for organisations need to be addressed, such as the additional administrative costs to voluntary organisations and the possibility that potential volunteers will be less willing to volunteer if they find that an incident that happened a long time ago and which has no relevance to child protection will be disclosed to the community. We must give assurances in that regard.

There is a need for clarity about the status and treatment of 16 to 18-year-olds in the vetting and barring system, which needs to be sorted out before stage 2. I would like to mention many other issues, but I do not have time.

It is important to acknowledge that the bill has been rushed. I sympathise with Robin Harper's position: it is difficult for us to know what will happen next. We support the general principles of the bill, but I hope that consideration will be given to how best to proceed and that, by stage 2, the minister will have provided more clarity. In the long term, we might regret passing rushed legislation.

15:09

Marilyn Livingstone (Kirkcaldy) (Lab): I am pleased to have the opportunity to contribute to this important debate in my roles as a relatively new member of the Education Committee and as convener of the Scottish Parliament cross-party group on survivors of childhood sexual abuse. I thank fellow committee members, the committee clerks and everyone who gave evidence to the committee, without whose support and hard work we would not have been able to have this stage 1 debate.

It is important to draw a clear distinction between the bill's provisions on vetting and barring in parts 1 and 2, and the provisions on child protection information sharing in part 3. The committee was clear that no single piece of legislation or guidance and no single change in wider social culture will guarantee the safety of our children and young people. However, we must do all we can do to ensure the safety of our children and young people—we are agreed on that—and the bill is one tool that is available to us to do that. We are all acutely aware that we must balance protection with the need to allow our children to develop and grow and to develop relationships to equip them for the future.

Parts 1 and 2 of the bill are based on the recommendations for England and Wales that resulted from the Bichard inquiry. I agree with the minister that we must ensure that no cross-border loopholes exist in the UK that could be exploited in Scotland.

It is important that we support the bill at stage 1. I ask Robin Harper and the Greens to reconsider their position, because we must do everything in our power to ensure that people who prove to be unsuitable to enjoy our trust are prevented from continuing to work with our most vulnerable people. The bill will ensure that the correct balance is struck and, importantly, will strengthen the Protection of Children (Scotland) Act 2003 by providing more efficient safeguards and protections.

I have been the convener of the cross-party group on survivors of childhood sexual abuse for six years and have worked with young children, parents and adult survivors of sexual abuse. We believe that greater public awareness and

understanding are essential if we are to combat the many myths that surround the issue, which Rosemary Byrne explained well, and its impact on society. All too often, we see the long-term effects and the links with mental health problems, alcohol and drug abuse, domestic violence and homelessness. Our generation has acknowledged that abuse happens, so our generation must find a solution.

I am pleased that the minister has agreed to remove part 3 of the bill to allow further debate. I agree that we need to ensure consistency of understanding and practice, but we must also ensure that there is a safe space in which children or very vulnerable adults can disclose information. Many people within the voluntary sector fear that, without such a safe space, some victims may not seek much-needed help and support. Sometimes, information is hidden away for days, months or years because of fear, intimidation or self-blame.

We must understand and reflect on the fact that poor information sharing has been a contributory factor in several tragic child deaths. We must ensure that there is a code of practice that will help to generate consistency and understanding and which will encompass and address the concerns that relate to consent and confidentiality, to which the Education Committee convener and others have referred. We must pursue a non-statutory code of conduct at the earliest opportunity. I agree with the minister and colleagues that we need to pursue legislation on the matter as soon as possible, but that must be done following consultation and when we have achieved an understanding of the correct balance.

As I said in a debate on survivors of childhood sexual abuse, we are in the 21st century, in the first Scottish Parliament in more than 300 years, and have within our grasp the opportunity to contribute lasting legislation that will change people's lives forever. We can give a clear message to perpetrators that they can no longer hide behind or rely on the silence that they impose on their victims. I asked Robin Harper to change his mind because the bill will allow us to throw light on the shadows that those people cast on the most vulnerable people in our society: our children. The bill will allow us to move in the right direction. Please support it.

15:14

Donald Gorrie (Central Scotland) (LD): The ministers and the Education Committee deserve credit. We are in the situation of a long-distance runner who sets out far too fast in a race. If we could start again, we would deal with the issue in a more measured way. However, at least the ministers acknowledge that we are where we are and have made concessions. The committee

made some good comments on the bill. It is important that we drop part 3.

I would find it helpful if the deputy minister, in winding up the debate, could elaborate a little on the comment that he made in an intervention to the effect that the retrospection element is up for grabs and that there might, in the end and after a lot of discussion, be no retrospection—or a variant of it. It is important to the voluntary sector that the issue is still genuinely up for discussion.

I agree that we legislate too much and that we try to make people good by act of Parliament, which, notoriously, cannot be done. We should try to make the bill as simple as possible; at the moment it is too elaborate and there are problems related to the policy. The emphasis on disclosure means that not enough consideration is given to the wider issues of good child protection and to having organisational policies that encourage employees to look after children well and to look out for people who may wish not to look after them well.

Concentrating on disclosure is also liable to lead to neglect of good appointment procedures. If we had a decent appointment system we would not appoint those unfortunate people in the first instance. We should not put too much emphasis on disclosure and we should resource adequately services that provide wider training and support for good youth work and for looking after adults.

We should provide good advice and not start all over again with new, free-standing and expensive organisations, which is the usual Government response. We should support the existing organisations, often at regional and local levels, which already provide good advice. For example, there is a good scheme that gives advice to sports clubs, but it is in danger of grinding to a halt through lack of money. We must fund adequately our advice-giving system, especially for small organisations, which need the most help. The public sector must try to understand the voluntary sector. It is no use having consultative meetings during the working day and being surprised that no volunteers come to them. There has to be a bit of intelligence shown on the part of the public sector—it exists, but it is a question of digging it out.

We need to audit the present and future systems to see how well they are working and to consider their defects. For example, the minister mentioned multiple disclosures. We must ensure that we do not make similar mistakes. On compliance, I am advised that only three people in Scotland are responsible for achieving compliance with the existing system. That needs to be considered, too. Although we have left too much to secondary legislation and guidance and so on, at least we will have to introduce it as quickly as possible so that

people know the guidance before the legislation takes effect. That was not the case with the previous system. Furthermore, all the stakeholders must get a real opportunity to influence the guidance.

Members have raised many points about 16 to 18-year-olds and protected adults. The idea that a protected adult can be identified by the services that he or she receives is bizarre, foolish and bureaucratic. It is a question of defining terms, such as “psychological harm” and “risk”.

There is also the question of workers from overseas. Section 47 tells us that we can be severely punished if we fail to tell the minister that we have changed our address. There are a lot of small issues like that. The position that we are in is not ideal, but we should go ahead and make the bill as good as possible. We should keep a careful eye on the bill and make it proportionate, so that high-risk and low-risk individuals are not all treated in the same way, which will result in foolish situations such as have already been described. It is with some reluctance that I say that we should support the bill and try to make it as good as possible.

15:19

Mr Kenneth Macintosh (Eastwood) (Lab): I am pleased to contribute to this afternoon's debate, not just because of the importance of the Protection of Vulnerable Groups (Scotland) Bill, but because it allows us to touch on wider areas of interest and concern. Several, if not all, speakers, starting with the Minister for Communities and Fiona Hyslop, and including Elaine Murray and David McLetchie, have mentioned the dangers of living in a risk-averse society and the damage that we can do to our children in overprotecting them from the experiences of life. I echo Elaine Murray's point that risk is an important part of life. We must learn to live with it and to make judgments for ourselves.

I hope that there is no doubt about where I stand on the subject of overly risk-averse behaviour. I have taken every opportunity over several years to voice my frustrations at the obstacles that seem to be designed to prevent everyday, normal activity. I have four young children, and I wonder whether members are aware of how difficult it can be for my wife Claire and me to take them swimming, for example. Rules that have been introduced by swimming pools—they are rules or guidance, not laws, as they might sometimes be regarded—can insist on a ratio of one adult to one child under two, or sometimes one adult to one child under four, and one adult to two children under eight. I will let members do the maths, but the bottom line is that, unless there is a stand-alone baby pool, we often cannot get in.

As for the inappropriate use of or references to disclosure legislation, members on the Education Committee have threatened to throttle me if I mention yet again how I was almost prevented from escorting my own children safely to school because of the need for a disclosure check in order to participate in a walking bus. Our school nursery almost had no Santa this year, because we could not find someone who was disclosure checked. Of course, I was disclosure checked, but I do not have the figure for it.

Hugh Henry: Yet.

Mr Macintosh: Thank you, minister.

Can we really lay all those problems and frustrations at the door of the bill? I think not. There are many factors at work in creating risk-averse behaviour. I include changes to how we approach outdoor pursuits and other activities; health and safety legislation and guidance; our increasing tendency as a society to sue for damages whenever anything goes wrong; and the blame culture. Kenny MacAskill spoke about significant changes in our society, our aging society, the interrelationship between old and young people and the role of men. All those factors are at work.

When the bill was introduced, as a couple of members mentioned earlier, it was joked that it should be renamed the protection of vulnerable organisations (Scotland) bill. The cynical view is that the rules will be used to cover people's backs rather than protect individuals. I warmly welcome the debate on the bill, and I have every sympathy with that fundamental concern. I am the first to decry the overzealous application of guidance as if it were law, and I do not want to overwrap our children in cotton wool. The crucial factor, which we should not miss in discussing the principles of the bill, is that it will hugely improve the current situation. It is an improvement on the law and the rules that are already in place.

Robin Harper: Given the member's sensible remarks on our risk-averse society, and given that the bill will just make it even less likely that something bad could happen to a vulnerable person, what extra risk would there be in delaying the bill so that we could have a really good look at it before passing it at Christmas?

Mr Macintosh: The bill offers a real improvement on the current situation. It takes us forward. We are better off with the bill, as opposed to continuing in the current situation. The bill will not add to risk-averse behaviour; it will improve on the current disclosure regime.

With or without the bill, everyone who currently works with children or who applies to do so will still have to get a disclosure check. Half the frustration with the current system is not about being

checked; it is about the need for a new check for every activity that a person engages in. A person will require a disclosure check to teach in a school. They might then go to another school in a different local authority area, for which they need another check. If they volunteer with the scouts, they have to get another check. If they take members of a youth organisation out on a fishing trip, they have to get another check. The bill addresses the problem of too much bureaucracy by introducing a far more portable disclosure system. Euan Robson commented that we are replacing the Protection of Children (Scotland) Act 2003 with a

"streamlined, less costly and less bureaucratic"

protection system—a passported disclosure system.

There has been a lot of concern about the number of people who will be included in the scheme. I point out that they are already part of the system. Retrospective checking is to be introduced under the existing child protection legislation, and that is a far more onerous and burdensome system than the one that is to be introduced under the Protection of Vulnerable Groups (Scotland) Bill.

There is a strong argument for flexibility over the timescale for retrospective checking, and I believe that that is exactly what the minister has signalled the Executive's approach to be—flexible.

Volunteers and people working with children change jobs and activities—as we all do—and there is every reason to believe that many, if not most, people who work with children will have applied for their vetting and barring status within a couple of years. That will greatly reduce the need for and the burden imposed by retrospective checking.

My final point was touched on by both Iain Smith and Euan Robson. Crucially, the bill extends to vulnerable adults the protection that we already afford our children. We have done much in the Parliament to address issues of elder abuse. Much has been done through the work of the Scottish Commission for the Regulation of Care and others to improve what goes on in our care homes, but the bill is another vital measure as it extends to our vulnerable older citizens the care and protection that we expect and give to our young.

Many of the issues that have been aired this afternoon are worthy of serious attention, but they were not invented by the bill. During the committee stage, a lot of witnesses—particularly those from the voluntary sector—talked about the direction of travel. Marilyn Livingstone pointed out earlier in the debate that we are the generation that has recognised that abuse happens. It has always happened, but we are the generation that has recognised it and has created the legislative

framework to enable the abuse to be tackled. Those abuse issues were not invented by the bill, they were not created by the bill and they will not be added to by the bill. Far from it: the bill represents a huge improvement on the protection regime that we currently enjoy. For that reason, I have no hesitation in recommending that we all endorse the general principles of the bill.

15:26

Dave Petrie (Highlands and Islands) (Con): I hasten to add that I was not invited to be Santa Claus either.

Although, like other members, I welcome the bill, I fear that pre-election haste is in danger of undermining its honourable aims and objectives. Sadly, the circumstances leading to the introduction of the bill are not wholly dissimilar to Dunblane—legislation is often driven by tragic events. The aim of the bill is to create a balance between protecting the vulnerable and providing a well-run service.

I agree with Elaine Murray that common sense must prevail. In my experience, many adults are reluctant to volunteer because of the intrusion brought about by multiple disclosures. Accordingly, I welcome the introduction of universal disclosure that will cover a group of organisations. However, it is imperative that we do not let others like Ian Huntley slip through the net. As Iain Smith said, the welfare of our children is paramount.

The bill omits a lot of fine detail and leaves much to be decided by ministers in secondary legislation, such as timescales and legal definitions of terms such as “enhanced disclosure”. There is an accountability issue. The place to decide those matters is a meeting of Parliament rather than ministerial offices.

As David McLetchie said, estimates from SCVO indicate that up to half a million new checks—double the current number—will need to be carried out each year by Disclosure Scotland, as a greater number of people will fall under its remit. It is important that sufficient resources are made available. I suggest that the £2 million that is allocated hardly seems adequate.

Nevertheless, as Euan Robson said, there is an obvious reason for change. Let us consider the record to date. In November 2006, Borders education chiefs admitted that a significant number of teachers had not undergone mandatory disclosure checks, because legislation was not in place when they took up their posts.

Fiona Hyslop: Does the member acknowledge that computer systems are only as good as the information that goes into them? Obviously, John

Reid’s experience at the Home Office and the concerns about people who have committed offences coming into the country also have implications. We need robust computer systems, but it can be the actions of individuals that make the difference rather than whether the system is in place.

Dave Petrie: I agree.

In July 2004, the Education Committee found Disclosure Scotland application delays of up to 12 weeks. In September 2002, a backlog crisis in England and Wales caused thousands of children to be sent home from school as staff were unable to work. Unvetted staff were then ordered to start work immediately while the backlog was cleared.

The system is clearly under strain. It is vital that sufficient resources and investment are introduced to prevent system meltdown.

Let us examine some of the current opinions on the measures. I refer first to the ones in favour. Local health boards are in favour of the proposals. Directors of social work are also in favour. They said:

“Improved vetting will make the scheme more cohesive”.

Unison stated:

“The new system will protect the wider community and increase public confidence in the workforce.”

However, others are opposed. For example, the commissioner for children and young people said that there was a lack of consultation and scrutiny. Some in the voluntary sector are critical and feel that the bill was too influenced by a heightened fear of child abuse in the community, whereas most cases of child abuse involve close family members, as was mentioned earlier. The EIS was scathing about the lack of detail, which leaves issues to be decided by ministers in secondary legislation.

Many definitions need to be enhanced. The definition of inappropriate medical treatment needs to be clarified to avoid the threat of prosecution in emergency medical situations. There needs to be greater clarity about whether 16 to 18-year-olds are classified as children or vulnerable adults.

Accordingly, we have the following reservations. There is a general fear that a tightened system will lead to unwarranted confidence in its reliability and less scrutiny during the referencing process and by the normal channels. People who work abroad outwith the European Union will not be effectively scrutinised, and even within the EU there will be problems, as has been highlighted recently. Further intrusion could discourage volunteers and financially hinder social community projects. I agree with Andrew Arbuckle that there could be a major impact on sports clubs.

There is a general concern that the bill could be being pushed through in a hurry to ensure that it reaches the statute book before Parliament is dissolved. It is important that we do not allow unscrutinised and bad legislation to pass due to parliamentary time restrictions. However, any legislation that improves the safety of Scotland's children is a good step forward. We must never allow a repetition of Soham. Accordingly, we support the bill, despite the omissions, and hope that ministers will have the foresight to make the necessary amendments at stage 2.

15:31

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

No one takes issue with the bill's overall objective, which is to better protect children and vulnerable adults from abuse by people who are working with them on either a paid or a voluntary basis. Similarly, there is no significant opposition to the notion that a registration scheme of the type that is recommended by the Bichard report should be established. However, the debate today and the Education Committee's consideration of the bill have raised serious concerns about the nature and shape of this Executive bill. Specifically, doubts have been raised about whether the bill is a proportionate response to the problem that it seeks to address and whether its implementation might have adverse—albeit unintended—consequences. The biggest potential downside to the bill is that it might reduce the capacity of the voluntary sector to deliver services to children and vulnerable adults by diverting resources to administering the protection system or by deterring volunteers.

To his credit, the minister has allayed some of the fears by responding with proposals for a longer timescale to phase in retrospective checking for the existing workforce. That should ease some of the burden. Incidentally, I hope that Euan Robson's interesting suggestions on how to take retrospection forward are taken on board.

Similarly, on information sharing, we believe that the minister has made the correct decision to drop part 3. Ensuring that relevant information is shared among agencies is vital if we are to avoid a repetition of some of the tragic cases that we have witnessed in recent years, when failure to share information resulted in horrific abuse and the deaths of youngsters who could and should have been afforded the protection of the relevant authorities. However, it is clear that consultation on that part of the bill has not been sufficient and that, if it were enacted in its current form, it might have a damaging effect on the welfare needs and human rights of those whom it was designed to protect. Iain Smith and Elaine Murray explained that particularly well.

Dropping part 3 and addressing the timetable for retrospective checks for the existing workforce are significant concessions. However, a question remains about whether the benefits that the proposed vetting and barring scheme that is outlined in parts 1 and 2 will bring will significantly outweigh adverse impacts. Certainly, the proposed improvements—the continuous updating of disclosure checks and an end to multiple applications—are desirable and worth having. On that basis, the SNP supports the general principles of the bill. However, we share the Education Committee's reservations, particularly its concern that so much of the guts of the bill will be left for ministers to determine in secondary legislation and codes of guidance. We agree with the committee that the bill should not proceed to stage 2 until draft regulations, guidance and codes of practice have been produced for scrutiny. I am interested to hear what the minister says on that when he sums up.

We should not rush through any legislation without adequate scrutiny just because we are coming to the end of a parliamentary session, least of all legislation on a sensitive matter. Although legislation might be important for child protection, it is not the be-all and end-all. David McLetchie spoke well about the something-must-be-done tendency that dominates the agenda. New laws will certainly do something, but will they be effective? That is the real question. To paraphrase Fiona Hyslop, bureaucratic systems do not necessarily protect children and vulnerable adults; it is people who protect other people.

Even if the bill is passed, we cannot afford to be lulled into a false sense of security. After all, even if the vetting and barring scheme works perfectly to exclude those with a history of harming vulnerable people, there will still be potential offenders who need to be detected and prevented from causing harm. I hope that the Executive and its successor will recognise that reality and ensure that policy development is not confined to legislation such as the bill but is extended to the inculcation of best practice in recruitment and workforce training to enhance the protection of vulnerable groups.

The Deputy Presiding Officer: I call on Robert Brown to wind up. Minister, you have about 10 minutes.

15:37

The Deputy Minister for Education and Young People (Robert Brown): I am obliged, Presiding Officer, although I am slightly confused by the timescale. I thought that the debate went on until 4 o'clock.

I begin by thanking the Education Committee for its careful and anxious consideration of the bill and its generous comments about the way in which the bill was approached. It has rightly been said—Fiona Hyslop touched on this at the beginning of the debate—that the bill is not party political. We are all anxious to get the bill right and to take it forward in a way that is workable and which goes with the grain of what people require.

I hope that our agreement to withdraw part 3—details of which were set out in Hugh Henry's letter to Iain Smith, convener of the Education Committee, on Thursday or Friday last week—and our undertaking to provide the policy information on which the subordinate legislation will be based will go a long way to satisfy the committee and the Parliament about the details of what we are trying to do.

Before I leave the issue of information sharing, it is important to emphasise that, as a number of members have said, it is an important issue. It is important to take the time to get it right, given that it has not been consulted on in the same way as the other parts of the bill. From that point of view, it is extremely important to go ahead with the code of guidance and the practical things that Adam Ingram mentioned in a different context at the end of his speech.

We should acknowledge—as a number of speakers have—the context in which the bill has been debated and discussed. Entirely valid issues have been raised, most of which are relevant to the bill but do not arise directly from it. Ken Macintosh made some quite good points about that and the way in which it should be approached. There are two important principles. There is the idea of risk. We want to let children have their childhood. The idea lurks at the back of people's minds that the streets outside the home are infested with dangers and with people who are ready to harm children. There is also a linked concern that too officious interference, particularly with voluntary sector bodies that provide exciting opportunities and experiences to widen minds and enhance lives, may deter volunteers from coming forward and providing such opportunities.

The Executive wants young people to have the greatest opportunities to live their lives to the full. They should be able to go white-water rafting or camping or to tramp around Scotland. The work of uniformed organisations, youth clubs, organisations that work with disadvantaged young people, care organisations and pre-school organisations, for example, is vital in providing opportunities to play, develop, grow up, innovate, lead and care, and in providing opportunities in many other areas that we also want the formal education system to cover. Our forthcoming youth work strategy, which is due to be issued in the

spring following the recent consultation—to which around 3,500 responses were received—will consider the recruitment, training and retention of volunteers. It is appropriate to consider whether there are ways in which we can change the tenor of the debate and the things that stand in the way of youth organisations and others providing controlled risks and life experiences to young people, and whether we can turn around the circumstances that sometimes cloud the debate.

On behalf of the Executive, I make it absolutely clear that the health of the voluntary sector is central to our vision for Scotland. We want the voluntary sector to do more and to encourage many more people to volunteer, not least to work in the youth work sector. A key part of the role of many groups and professional stakeholders is to provide important life-enhancing activities to young people. It is also important that parents and carers can entrust their children or dependants to public, private or voluntary organisations, confident that unsuitable people who would harm them do not have access to positions of trust and care in the workforce. As Hugh Henry said in his opening speech, the bill is about protecting our children, but it is also about protecting parents, family members, friends and ourselves when adult care services are needed. It is about ensuring that people who have been proven to be unsuitable to enjoy the trust that we place in them are prevented from continuing to work in that sector.

I do not deny that a substantial part of the child abuse that takes place occurs in the home or that it is done by people whom the individuals know. Several members have mentioned that reality. However, that is not the same as saying that we should not do anything about protections in the workplace, which is what the bill is primarily about. That is the fundamental reason for progressing the bill and the proposed vetting and barring scheme.

Issues relating to proportionality, which are central to the debate, have been raised. We must get things in perspective. The proposals in the bill will build on and streamline the existing system, with which there have been issues. For example, I think that Dave Petrie talked about Disclosure Scotland delays. I hope that such matters will be of historical interest. The information that I have received is that the disclosure system now works reasonably smoothly, the timescales are quite reasonable and the difficulties that we had a year or two ago are now not prominent in the system. The issues have been tackled and, I hope, overcome. We know the costs of the current system, the updating problems and our assessment challenges, particularly with respect to non-conviction information. The bill is designed to tackle those matters, remove bureaucracy and make things easier for users. I think that

everybody would admit that the changes are badly needed.

I make it clear that there will be no substantial basic change in the numbers. Currently, there are around 490,000 disclosures of all kinds annually, only half of which—around 240,000—relate to children or vulnerable adult positions that are covered by the bill. Under the new arrangements, the 240,000 full or enhanced checks will be reduced to around 60,000 a year once the system is fully implemented. A simple online update check will be used for the rest. That approach represents a great simplification of the system.

The voluntary sector has made it clear to me—most recently at the meeting on Monday, to which I referred—that although it has lower-level issues to be dealt with at stage 2, which will obviously be raised with committee members and ministers, it does not substantially disagree with the scheme, aside from on the issue of retrospective checking, to which I turn.

My colleagues and I have made it clear from the beginning that retrospective checks, along with the fees scheme and the approach to the level of bar by the central barring unit, will be fully consulted on after the bill is passed—no argument, no ifs, no buts. We have no interest in forcing implementation until the stakeholders—especially those in the diverse and dynamic voluntary sector—are comfortable with what we propose. It is true that the financial memorandum illustrates the cost and the numbers if we took, for the sake of argument, three years to implement retrospective checks. However, the financial memorandum states clearly that that is for illustrative purposes and is not a policy decision by the Executive.

Suggestions such as that which Euan Robson made will be taken on board in implementing the legislation and, if we go ahead with retrospective checking, we will work closely with the voluntary sector for however long it takes to ensure that the checking is satisfactory and effective. That is central to our position on the issue. The implementation process will be measured and purposeful. If there is one thing that I have learned—as, I am sure, have other members—it is that passing a good bill is one thing, but implementing it effectively on the ground is another. We have all been stung by that in different ways in the past.

I would like to touch on one or two of the good points that have been made in the debate. I apologise to members whose points I do not mention. We will study all the speeches that have been made in this excellent debate later. A number of examples have been given of the bizarre nature of the disclosure system—the difficulty in getting a Santa, the East Renfrewshire

issue and so forth. I would not say that they do not raise substantial issues, because they do, but quite a lot of them are, according to any view, outwith what is required by the bill. That takes us back to the climate issue that I talked about at the beginning of the debate.

As one or two members have stated—most recently Andrew Arbuckle—advice is important. So far, we have tended to direct people to all the documentation that we worked with the voluntary sector to produce for the previous arrangements, but we have told them that, at the end of the day, they must make their own decisions on the matter by looking at the legislation. That is probably not the best way to approach the matter when dealing with a small parent-teacher association or similar group. We need to reconsider the role of the central registered body and others to see whether we can improve the advice arrangements that are in place, the accessibility of advice and the way in which it is given, to ensure that it works and that people can clearly and easily get information that helps them to make decisions. We must also be careful not to mislead people about the legislation.

Donald Gorrie made a key point about the need for good appointment procedures. Other members also talked about that, including Adam Ingram. We must be extremely careful that in implementing the bill—which deals with those who are unsuitable, not those who are suitable, to work with children and vulnerable adults—we make it clear that it is up to organisations to make the decisions about who they employ and how they employ them. We must make it clear that they should properly assess not just the information that is given in any disclosure arrangements, but good employment practices as well. At the end of the day, the people who make the decisions are responsible for the good health of their organisations.

The Scottish ministers are fully committed to implementing the bill in a workable way. We are prepared to consider the suitability of appropriate amendments at stage 2—I do not doubt that many such amendments will be lodged. We are prepared to consider especially whether the commencement of retrospective checks, on which consultation will take place, can be reinforced in some way, perhaps by regulation. We are happy to consider that. We are fully committed to finding workable ways of embedding the scheme so that it becomes—as it is—a beneficial addition to normal recruitment and retention practice, and we will engage fully with all the stakeholders as we go along.

I thank members for an excellent debate. I urge the Parliament to support the general principles of the Protection of Vulnerable Groups (Scotland) Bill.

Protection of Vulnerable Groups (Scotland) Bill: Financial Resolution

15:49

The Deputy Presiding Officer (Trish Godman): The next item of business is consideration of motion S2M-5363, in the name of Tom McCabe, on a financial resolution in respect of the Protection of Vulnerable Groups (Scotland) Bill.

Motion moved,

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Protection of Vulnerable Groups (Scotland) Bill, agrees to any expenditure of a kind referred to in paragraph 3(b)(iii) and any charge or payment of a kind referred to in paragraph 4 of Rule 9.12 of the Parliament's Standing Orders arising in consequence of the Act.—[*Robert Brown.*]

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

Prostitution (Public Places) (Scotland) Bill: Stage 1

The Deputy Presiding Officer (Trish Godman): The next item of business is a debate on motion S2M-5334, in the name of Tom McCabe, that the Parliament agrees to the general principles of the Prostitution (Public Places) (Scotland) Bill.

15:50

The Minister for Finance and Public Service Reform (Mr Tom McCabe): In 2003, the Scottish Executive established an expert group to consider the issues surrounding prostitution in Scotland. By December 2004, that group had published its first report, which dealt specifically with street prostitution involving women with a strong recognition that the issues are complex and that the criminal law alone cannot solve them. The report recommended a change to the criminal law to provide an offence that would apply equally to purchasers and sellers and would focus on tackling the alarm, offence and nuisance that street prostitution causes to communities.

Following consultation, the Executive published its response in November 2005. We acknowledged that street prostitution is indeed a form of violence against women. We also offered two key commitments that were broadly supported by stakeholders. First, we committed to accept the expert group's recommendation on the need to replace the existing, imbalanced legislation on prostitution, which focuses only on the seller, with a new offence that for the first time will tackle both the buyer and the seller.

Our second, equally important commitment was to produce guidance for local authorities and their community planning partners on tackling street prostitution. The expert group expressed the view, which was echoed by the Association of Chief Police Officers in Scotland, that, on its own, the criminal law will not deal with street prostitution. That is why we need local, multi-agency strategies to address all aspects of the problem.

Elaine Smith (Coatbridge and Chryston) (Lab): I agree with the minister's last point but wonder whether the Executive has identified any particular funding streams for those strategies.

Mr McCabe: A number of groups already receive Executive funding. The guidance that has been produced will be useful in providing the parameters within which those groups can work. The guidance offers advice on how to prevent individuals from getting involved in prostitution in the first place. That is very important. It also covers how to reduce the harm that is experienced

by individuals who are involved in prostitution and it focuses on assisting them to leave that activity. It also talks about the need to protect communities that find themselves affected by prostitution.

Although we and others explicitly recognise that, on its own, the criminal law cannot solve the problem, it has an important role in tackling the nuisance that street prostitution causes. It signals the kind of behaviour that society regards as unacceptable and it can help to deter that behaviour. The key principle of the bill is to correct the imbalance in the current legislation. At present, only those who sell sex in public places can be prosecuted for soliciting or loitering. By contrast, no statutory offence applies to the purchasers who create the demand. They can be prosecuted only where their behaviour amounts to a breach of the peace.

Margo MacDonald (Lothians) (Ind): The minister might have just reached the point in his speech that I was going to ask him about. He said that there is no statutory offence that can deal with the buyer's infringement of the law. Does breach of the peace legislation not take care of that?

Mr McCabe: Clearly, it is the view of the Executive and the expert group that that does not deal with the problem adequately and that the current imbalance in the law has existed for far too long. That is why the bill will criminalise kerb crawling for the first time. For the first time, it will be an offence to try to purchase sex on our streets. We believe that that will be well regarded by communities the length and breadth of Scotland. We believe that it is only by tackling demand that we can hope to minimise harm to prostitutes and reduce nuisance to communities.

Having worked closely with the Local Government and Transport Committee during stage 1, we are pleased that the committee is supportive of the broad intention of the bill, but we recognise that it has a number of concerns about how the bill will work in practice. The committee has made it clear that its support for the general principles of the bill is conditional on the Executive undertaking to amend the bill to address those concerns.

Tommy Sheridan (Glasgow) (Sol): Does the minister accept that, in the course of examining the bill, the committee arrived at the conclusion that, without a significant increase in the number of drug treatment and rehabilitation places throughout Scotland, the chances of tackling the problem and providing routes out of prostitution are very slim? Does he accept that we need an increase in the number of such places?

Mr McCabe: I accept that the committee expressed a view on that, but the Executive has never said that the bill will cure every problem that

exists around prostitution. We have said that the bill will tackle the existing imbalance whereby the law focuses only on the seller and allows the purchaser a far different legal regime. We want to bring that to an end.

Under the bill as drafted, kerb-crawlers would commit an offence when they approached someone to solicit them. That approach is broadly equivalent to the kerb-crawling legislation in England and Wales.

The committee heard evidence that those who drive slowly around an area can—even if they do not solicit—cause considerable nuisance to the public. Therefore, the committee wanted the bill to go further by criminalising those people who, in effect, loiter within a car. Framing an offence of loitering in a car presents legal challenges, given the need to uphold enforcement without compromising the presumption of innocence. However, we believe that we have identified an approach that would enable a person, whether on foot or in a vehicle, to be charged with a loitering offence if, given all the circumstances, it would be reasonable to infer that the person was loitering for prostitution-related purposes. In the interests of fairness and to ensure compliance with the European convention on human rights, the defendant will be entitled to lead evidence to challenge the proposition that he was loitering for the purpose of prostitution. We will lodge an amendment on that basis.

The committee also considered that the bill should be amended so that it applies only to purchasers and that the existing offence should be retained to deal with sellers—

Carolyn Leckie (Central Scotland) (SSP): Will the minister take an intervention?

Mr McCabe: I need to make some progress, as I have already taken three interventions.

Focusing the new legislation on kerb-crawlers will send a clearer message about the unacceptability of that behaviour. Tackling the demand for street prostitution in that way will—I repeat—minimise the harm to prostitutes and reduce the nuisance to communities. Again, we will lodge an amendment at stage 2 to apply the new offences to purchasers only.

I am sure that the Parliament will agree that, on the ground of fairness and to avoid unnecessarily complicating enforcement, we should consider that the basis of the offences should be the same. The offence provisions in the bill currently aim to make it an offence to solicit or loiter in such a manner or in such circumstances as would be likely to cause alarm, offence or nuisance to a reasonable person. The offence provisions in the Civic Government (Scotland) Act 1982, on the other hand, make it an offence for a prostitute to solicit

or loiter per se. Therefore, we will seek to amend the bill to remove references to alarm, offence or nuisance. That will make soliciting and loitering for the purposes of prostitution an offence for both purchaser and seller. There will be no need to prove that the activities of either would be likely to cause alarm, offence or nuisance.

The committee also asked the Executive to consider the introduction of stronger maximum penalties for purchasers. If the new offences apply only to purchasers, it will be more straightforward to introduce differential penalties. We will therefore seek to amend the bill to increase the maximum fine to level 3 on the standard scale. We will also examine the possibility of replicating the powers to disqualify offenders from driving that are currently in operation in other parts of the United Kingdom. As members will know, that is a reserved matter and, as such, would require an order at Westminster once the bill has been passed.

The committee also asked the Executive to consider whether it would be appropriate to provide the court with powers to seize the vehicles of those who engage in kerb crawling. We see that recommendation as a reflection of the committee's desire for effective use of existing powers under the Proceeds of Crime Act 2002 to confiscate property that was used in the commission of an offence. When the court considers it appropriate, those powers could be used to confiscate kerb-crawlers' vehicles.

The committee wishes to ensure that the new offence applies throughout Scotland. It expressed concern about the operation of informal management zones whereby the police do not enforce the law at certain times in certain places. The committee has sought reassurance that the legislation on street prostitution will be enforced throughout Scotland. We are clear that the bill will apply throughout Scotland. There is no location or zone in which it will not apply.

I confirm that the Scottish Executive, ACPOS and the Crown Office consider it essential that enforcement policy is monitored to ensure that it continues to serve the public interest, with particular regard to the safety of the women who are involved, how the policy helps to direct services towards those women and the effect of prostitution on our communities.

Of course, enforcement is a matter for the police in consultation with the Procurator Fiscal Service. The police have a general duty to enforce the law, although they have a measure of discretion as to how that is done. It would be inappropriate for the Executive or the Parliament to interfere with operational policing decisions or with the independence of the prosecution service.

The only operating management zone is in Aberdeen. Grampian police and Aberdeen City Council have told the committee that they will review its operation in the light of the bill. We expect procurators fiscal, the police and local authorities to take into consideration the Parliament's views in considering the public interest.

The Executive remains committed to addressing the problems that are caused by street prostitution and in particular to tackling kerb-crawlers. We have said that we intend to address the committee's concerns by lodging stage 2 amendments. I urge the Parliament to support the bill. In doing so, for the first time we will tackle the utterly unacceptable practice of kerb crawling using the force of law.

I move,

That the Parliament agrees to the general principles of the Prostitution (Public Places) (Scotland) Bill.

16:02

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): I apologise to members for not being here at the beginning of the debate, which was brought forward by 10 minutes. I could not be here at that time.

Every woman who has to turn to prostitution does so as a last resort. I suggest that every such case involves an individual human tragedy. Every prostitute faces a life of constant exposure to danger and to the ever-present risk of physical attack and abuse.

We all know that what often drives women to prostitution is an addiction to drugs. We acknowledge that that is an extremely serious problem and that the bill, which the Scottish National Party will support, does not address the problems of trying to find an exit strategy for those women directly. However, the bill is absolutely necessary, as I believe all parties recognised during the work that Local Government and Transport Committee members undertook. That work was fairly successful, as the assurances that we received from the minister yesterday evening tell us that the bill will now be something that I hope we can all support.

Originally, the bill sought to tackle loitering and created two new offences of soliciting and loitering. It sought to tackle kerb crawling. The committee heard powerful evidence, particularly from ladies from Glasgow. I will quote briefly Jennifer McCarey from the Calton area of Glasgow, who told us about her direct experience of exposure to kerb crawling. She said that kerb crawling

"is a car slowly following you and creeping along beside you. Often you are the only person in the street. The car stops until you catch up, then it drives slowly beside you and stops. It is tremendously intimidating behaviour, which does not involve rolling down a window and talking to you."—[*Official Report, Local Government and Transport Committee*, 24 October 2006; c 4149.]

Those witnesses also described the task of explaining to their young daughters what those men are doing. It is fair to say that the evidence that we heard from them was extremely powerful and persuasive, as was all the other evidence that the committee received. However, the problem that many members found was that, although we all wanted to tackle kerb crawling—the problem that was so graphically and effectively described—the bill appeared to offer an absolute defence to it. Section 1(6) states:

"No offence ... is committed... if B"—

that is, the person who is seeking to buy sex—

"is in a motor vehicle which is not public transport."

The bill says that it would be a defence to prove that somebody was driving round in a car, which seemed to me to mean that it was not so much the Prostitution (Public Places) (Scotland) Bill as the kerb crawling (enabling) (Scotland) bill, and I said so in committee. However, the work that all parties on the committee carried out culminated in persuading the Scottish Executive that the initial approach was flawed.

I will deal with one point of principle that I raised in committee and which I am delighted, if somewhat surprised, that the Executive appears to have accepted—perhaps it reread my evidence from the course of the committee's inquiry.

Mr McCabe: Perhaps not.

Fergus Ewing: That is also a possibility.

Paragraph 2 of the policy memorandum, under "Policy Objectives", states:

"The current law in Scotland is focused on those (predominately women) who sell sex on the street and not on those (predominately men) who purchase. There is a need to redress this balance in order to protect communities from the nuisance, alarm or offence arising from street prostitution-related activities in or near public places, whether caused by seller or purchaser."

It is necessary to redress the balance—why is it that the women are prosecuted by the full force of the law and the men escape scot free? However, the reason why it is necessary to redress the balance is not that nuisance is caused. The nuisance is a consequence of kerb crawling and the behaviour of the men. The need to prevent kerb crawling and make it a crime is a need to redress the balance between men and women full stop. I am therefore delighted that the minister has said that he will lodge amendments at stage 2 to remove the reference to nuisance and the

requirement that, for an offence to be committed, a nuisance must be caused.

Margo MacDonald: Does Fergus Ewing accept that if the references to nuisance, alarm and offence are removed from the bill, it becomes a morality bill?

Fergus Ewing: No. I thought that Margo MacDonald would raise that point and I looked at the paperwork again in preparation for answering it. The expert group specifically said that it was not its aim to criminalise people on the basis of morality, but I do not view prostitution simply as a moral issue. It is a moral issue but, as the witnesses from Glasgow City Council said, it is mainly about violence to women. For that reason, we must ensure that the men are prosecuted, are turned into criminals and face the full force of the law. We must ensure that men who persistently and repeatedly offend face the possibility of their driving licences being removed and of forfeiting their motor cars.

It is time to target the men. I say to Margo MacDonald that we must do that not simply for morality but to protect the women who are involved. Therefore, I am delighted to be in the position of warmly congratulating the Scottish Executive—which is somewhat unusual for me—on its most welcome U-turn. A man of Mr McCabe's abilities, with Mr Lyon assisting, is well able to execute a U-turn in such a way that no one really notices and, in a spirit of generosity, I am delighted to welcome the U-turn that he has carried out so adroitly today. Accordingly, the Scottish National Party will support the bill at decision time.

16:10

David McLetchie (Edinburgh Pentlands) (Con): When that self-proclaimed expert mathematician otherwise known as the First Minister of Scotland appointed Mr George Lyon to help Mr Tom McCabe to count the Scottish Executive's beans as Deputy Minister for Finance, Public Service Reform and Parliamentary Business, Mr Lyon may have anticipated some testing times in the chamber and in committee on the subject of the Scottish Executive's budget, but he could not have expected to be landed with responsibility for a bill dealing with street prostitution. The fact that the bill has ended up on the desk of Mr Lyon and with the Local Government and Transport Committee is a reflection on the volume of bills relating to justice and home affairs, with which even two parliamentary justice committees are struggling to cope.

Be that as it may, the minister is to be commended for his willingness to engage with the

committee in its consideration of the bill and to lodge substantial amendments in the light of the evidence that was given to the committee and of the recommendations in the committee's report. Those changes, as Fergus Ewing said, are wholesale and fundamental. Given the criticisms in the committee's report, some might say that the Scottish Executive has just executed the greatest climbdown since Hillary's descent from Everest, but that would be uncharitable. It would be fairer and more generous to welcome the positive engagement through which the Executive has committed itself to lodging those important amendments at stage 2.

The committee was framing its report against the backcloth of the murders of prostitutes in Ipswich. The Lord Advocate referred to that in her letter of 16 January to the committee on the subject of management zones. Those murders attracted worldwide attention because of the number of victims and the frequency of the murders, which were seen as the work of a serial killer. A wider examination of how street prostitution was policed in Ipswich and of what lessons that teaches us as regards the safety of women who are engaged in prostitution should await the conclusion of the criminal proceedings. However, one common denominator that could not fail to escape our attention is that all the young women who were murdered were working as street prostitutes in order to feed a drug habit. Breaking that addiction is surely a key element in helping women out of prostitution. Tommy Sheridan was quite right to raise that point when he intervened on the minister.

Street prostitution is a public nuisance and it is a blight on the communities that are affected by it. No one who heard the evidence given to the committee by the representatives of the Leith Links residents association in Edinburgh or the Calton for all group in Glasgow could be in any doubt about that. Fergus Ewing referred to their evidence that the presence of street prostitutes and their clients, who were invariably kerb-crawlers in cars, was offensive, intimidating and dangerous to residents, particularly women and young girls.

The test that I applied to the measures that were proposed in the bill was whether they would enable us to tackle that nuisance more effectively. On the basis of the evidence that was given, the answer to that question was indisputably no, for two reasons. First, despite its aim of tackling the purchase of sexual services on the street, the bill did not make it an offence to loiter in a car; it merely made it an offence to solicit from a car, although all the evidence indicated that soliciting from a car was relatively rare and that soliciting was invariably undertaken by the seller, not the buyer. Accordingly, the bill as introduced did not

effectively tackle the nuisance of kerb crawling which, as we heard, is undertaken not only by men who wish to buy sex from prostitutes but by others who cruise the streets for voyeuristic purposes or to abuse and harass women who are engaged in prostitution.

The Deputy Minister for Finance, Public Service Reform and Parliamentary Business

(George Lyon): Does Mr McLetchie accept that the offence that was initially presented in the bill was based on the English and Welsh offence of soliciting from a motor vehicle and that around 800 convictions were secured on the basis of that offence down south? The Executive has accepted the criticism that we needed to go further here and we have responded by going further to tackle the offence of loitering in a vehicle as well. I would welcome Mr McLetchie's recognition that that is the spirit in which we have tried to respond to the concerns that the committee has raised.

David McLetchie: I am happy to do that and I welcome the amendment that the minister has undertaken to lodge at stage 2 to deal with that issue. Fergus Ewing welcomed that undertaking as well.

A point that came out in evidence—in particular, in the evidence of Assistant Chief Constable John Neilson of Strathclyde police—is that the bill as introduced would have made it more difficult to convict prostitutes than it is under the present law, as set out in section 4 of the Civic Government (Scotland) Act 1982. Under the present law, we have the concept of a known prostitute soliciting or loitering for the purposes of prostitution in a public place; under the bill as introduced, it would not have been sufficient for the prostitute merely to solicit or loiter—she or he would have had to do so in such a way or in such circumstances as would be likely to cause alarm, offence or nuisance to a reasonable person. In other words, the law as proposed set the bar at a higher level for police and prosecutors than is the case at present. From the standpoint of dealing with sellers, the bill was therefore likely to prove less rather than more effective. That was a nonsensical state of affairs and I am glad that it is to be corrected.

I am delighted that the Scottish Executive has revised its views and will recast the bill along the lines that the Local Government and Transport Committee recommended in its report. The changes will enable us to tackle the nuisance of street prostitution. I trust that the law, as amended, will be properly enforced throughout Scotland. That is not to ignore the wider issues surrounding prostitution in general. However, we cannot and should not have, as a starting point for policy, the proposition that the law of the land is not to be applied or enforced. I support the bill.

16:16

Mike Rumbles (West Aberdeenshire and Kincardine) (LD): The bill that is before us has a deliberately narrow focus. It is not about tackling the whole issue of prostitution, and it is not about making prostitution illegal—although there are one or two MSPs in the chamber who I am sure would like to do just that. No; the bill is about trying to remove the demand for street prostitution by making kerb crawling an illegal activity.

I welcome the Scottish Executive's approach. This is a long-overdue reform of our law. Indeed, many people throughout Scotland will be surprised to learn that kerb crawling is not already specified as an illegal activity.

As has been mentioned, the Local Government and Transport Committee, when taking evidence on the bill, heard from residents groups about the fear and distress that are created by motorists slowly circling residential areas looking for prostitutes. That is precisely the activity that the bill is designed to address.

Margo MacDonald: Do we take it that the bill is designed to address the fear, annoyance and alarm, and not the business of prostitution?

Mike Rumbles: The bill is not designed to address the business of prostitution per se; it is designed to take away the demand by making kerb crawling an offence. That is what the bill focuses on.

The Local Government and Transport Committee's unanimous view was that the bill, as drafted, would not have succeeded in its main aim. Why? Because, as we all know, section 1(6) exempts motor vehicles from the scope of the bill. I am glad that Scottish Executive ministers have listened to the committee's concerns. As we have just heard, ministers have agreed that the Executive will lodge amendments at stage 2 that will alter the bill radically so that it will indeed tackle the issues that it is supposed to tackle, and will do so effectively.

The minister said that the Executive has agreed to focus the new offence entirely on the purchasers of sex. The Executive has agreed to include as an offence loitering in a car for the purposes of obtaining the services of someone engaged in prostitution; it has agreed to remove the extra burden of proof about causing alarm, offence or nuisance—proof that would be required if the bill were to be left as drafted; and it has agreed to retain the existing offence under section 46 of the Civic Government (Scotland) Act 1982 in relation to the sellers of sex. The Executive has also agreed with the committee on the doubling of the maximum penalty for kerb crawling to £1,000.

On that last point, I am not personally convinced of the need to increase the penalty. I do not think

that it will make any difference whatever to the offender whether the maximum fine is £500 or £1,000. However, the majority of committee members believed that the maximum should be increased and the Executive has listened. That is the important point. Indeed, as far as the issue of penalties for offenders is concerned, the Executive has agreed to seek an order at Westminster. Tom McCabe said that the Executive would do that in order to provide the courts with the power to disqualify from driving people who are convicted of kerb-crawling offences.

The only other real point of controversy concerns the so-called prostitution management zones. Originally, my view was that the zones represented an anomaly in that the law of the land was not being enforced across the country and the police and local councils were co-operating in managing an illegal activity. However, recent events in Ipswich have shown dramatically the way in which lives are put at risk and how dangerous the activity is to those who are engaged in it. Of course, prostitution is an illegal activity, but I am now not convinced that simply banning management zones is the right way forward. It is only right that, in a letter to the Local Government and Transport Committee, the Lord Advocate gave the undertaking that, in light of the new offence, new guidance would be given on the operation of management zones, such as the one in Aberdeen.

Given the number of undertakings from the Executive to alter radically the bill at stage 2, the Parliament should approve the general principles of the bill this afternoon. The bill should be allowed to proceed to stage 2, at which time the Executive can amend it in the way that the minister outlined. If the bill becomes an act, we will have on the statute book an effective law that focuses on the removal of the demand for street prostitution.

Tommy Sheridan: Will the member take an intervention?

The Deputy Presiding Officer (Murray Tosh): No. The member is almost finished.

Mike Rumbles: If that happens, it must represent a step in the right direction.

The Deputy Presiding Officer: I call Bristow Muldoon to open for the Labour Party.

16:21

Bristow Muldoon (Livingston) (Lab): I think, Presiding Officer, that I am speaking on behalf of the committee, and not opening for the Labour Party.

The Parliament has debated the issue of street prostitution a number of times, quite often as the result of the attention that Margo MacDonald has

brought to the issue over the past few years. She did that first through the bill that she introduced to Parliament and then through her involvement in the Executive's expert group on prostitution in Scotland, which Sandra Hood chaired.

The bill that is before the chamber today is not a comprehensive attempt at introducing a complete solution to the problems that are associated with prostitution. It would no doubt be naive to believe that any single piece of legislation could eradicate prostitution from our society. Changing attitudes, primarily among men, is far more important in reducing the prevalence of prostitution.

Although the bill is limited in scope, it aims to make a significant change in the law. For the first time, people who seek to procure sexual services from street prostitutes will face being charged with a criminal offence. I hope that that sends out a strong message on the Parliament's view of street prostitution and on the view that we take with regard to men. Obviously, it is predominantly men who are involved in kerb crawling and purchasing sexual services from prostitutes.

Margo MacDonald: I appreciate that the bill has a narrow focus, but why should the people who attempt to sell or buy sexual services on the street be made subject to the criminal law when the people who sell sexual services through the internet or use mobile phones to conduct their business are not being made subject to the same law?

Bristow Muldoon: Two points arise from Margo MacDonald's intervention. First, there is a need for the Executive to review all the law that applies to forms of prostitution other than street prostitution. Secondly, associated with street prostitution are the problems that the activity causes to communities. In particular, women in our communities can be targeted by kerb crawlers who seek to purchase the services of a prostitute. At some point in the very near future, the Executive needs to review all the legislation in this area.

Tommy Sheridan: Will the member give way?

Bristow Muldoon: I need to make progress. I do not have much time in which to make my speech.

The bill will introduce a criminal offence, the aim of which is to deal with the men who are involved in kerb crawling and purchasing sexual services from street prostitutes. In addition to sending out that message, I hope that the bill will have a strong deterrent effect.

I make the general observation, which Mr McLetchie and Mr Sheridan also made, that as well as changing the law the Executive must work further with local government, the health service

and voluntary organisations that work with women who are involved in prostitution, to develop more services that offer women support and opportunities to break out of prostitution. It should be acknowledged that for a high percentage of those women, high levels of drug use and other chaotic elements in their lives have led to their becoming involved or trapped in prostitution.

Margo MacDonald: Did the committee discuss how services can be delivered to women who are scattered because they are hiding from the police?

Bristow Muldoon: In parts of the country in which there are no tolerance or management zones, voluntary groups and local authority workers manage to identify women who are involved in prostitution and to make services available to them. I would expect the police to be able to refer women to such services, too.

The bill had a rough ride through the committee and was criticised in a number of ways. However, in framing our report, I think that no member of the committee disagreed with the Executive's aims. The issue was whether the offences as drafted would have the impact that the Executive intended them to have.

A number of members mentioned the fact that the offence of loitering would not apply to people in private cars. The approach seemed odd to the committee, given that the intention was genuinely to tackle the men who cause most of the nuisance in communities that are affected by prostitution. Therefore, I welcome the Executive's intention to lodge amendments to remove that exemption and to create an offence of loitering in a car for the purposes of procuring prostitution.

The increase in penalties for purchasers has been mentioned. The committee considered the measure to be appropriate because we thought that there have been heavier penalties on prostitutes than on purchasers and that a higher fine would have a greater deterrent effect. Given that many offences are committed from private motor vehicles, we also thought that consideration should be given to the power to seize vehicles. The minister has said that such powers already exist; we should consider how they might be used in response to the offence that we are considering.

Time is short, so my final comment is on the creation of comparable offences for women and men who engage in prostitution. It is right in principle that there should be a comparable test of whether an offence is being committed and I welcome the Executive's proposals in that regard.

The bill as drafted had major problems, but it can be improved at stage 2. I welcome the reassurances in Mr Lyon's letter and in Mr McCabe's speech and I recommend that the bill's general principles be agreed to.

The Deputy Presiding Officer: Mr Muldoon was, of course, opening on behalf of the Local Government and Transport Committee. We move to the open debate.

16:28

Mr Kenny MacAskill (Lothians) (SNP): We are dealing with the bill at stage 1, so we are considering its general principles. To that extent, we are more than happy to support the bill, as Fergus Ewing said. It is clear that there have been problems to do with the drafting of the bill, as Bristow Muldoon and others said, but we accept that the approach is now heading in the right general direction.

We have a great deal of sympathy for the Executive. The issue is problematic and it is extremely difficult to legislate on matters that impinge on morality as well as criminality. The issue divides society and is often not simply black and white—there are shades of grey, as other members will no doubt say. I accept Bristow Muldoon's argument that the bill is not meant to be all encompassing but is intended to deal with a particular aspect of prostitution. In future, the Parliament might need to consider other aspects, but the bill that we are considering addresses the particular problem of street prostitution.

It is important from the outset to kill the myth that prostitution is the oldest profession in the world and at worst can be regarded simply as a base capitalist transaction between willing sellers and purchasers—madames and their reputable clientele. I do not believe that it is any such thing; street prostitution is certainly not any such thing. As I was a defence agent in the city of Edinburgh for 20 years, I am well aware that street prostitution is almost universally conducted by heroin addicts who are victims of abuse and who, in many instances, were victims of abuse as children. Sadly, women are now trafficked into Scotland from foreign lands. They think that they are coming to work in pubs or clubs, but instead find themselves abused in a country where they hoped to find economic and social advancement. We must kill the myth that prostitution is somehow legitimate; it is the exploitation of women and it must be treated in that way.

Carolyn Leckie: I am glad that the member has set the debate in that context and has acknowledged that women are victims. If it is accepted that women are victims, why are women still criminalised?

Mr MacAskill: As I was going to say, I much prefer the situation that exists in Sweden. We are heading in that direction by dealing with kerb-crawlers. However, situations could arise in which somebody, perhaps because of their heroin

addiction, persists in doing something, in Horse Wynd or anywhere else, that we feel to be morally unacceptable. That simply cannot be allowed. The number 1 aim should be to target anybody who drives round seeking to exploit women, but instances may arise in which we simply cannot allow something to happen. The issue is one of pragmatic enforcement. As I said, the emphasis should not be on criminalising women, but I would not support anyone who argued that we should decriminalise prostitution. The issue is about how the prosecution service and the police should address prostitution.

If we decriminalised prostitution, instances could arise in which somebody, who could be misguided, sought to abuse the situation, for whatever reason. We should not allow that to happen. Decriminalisation would also open up an opportunity for the pimps and organised criminals who exploit women. They would know that they could make ill-gotten gains, but there would be no punishment. We see that in other aspects of society, such as the use of youngsters as drug mules because of their age and the likelihood that they will not be prosecuted. We cannot decriminalise prostitution. The bill goes in the correct direction, which is criminalising those who set out to exploit women, in whatever form.

Margo MacDonald: Will the member give way?

Mr MacAskill: Sorry; I am running short of time.

That takes me to the issue of tolerance zones, which we must accept are not all sweetness and light. There may be circumstances in the city of Aberdeen that I do not know about, but the zone in Edinburgh was certainly not acceptable for those who had to live in the area. One of the issues may have been societal change—housing changed and people moved into areas that had previously been brownfield or undeveloped sites. However, for all the people who lived in the area, not simply women or young women, life was often intolerable. That situation simply could not be allowed to continue. For that reason, I believe that the bill is correct in going down the route of targeting those who seek to exploit and being sympathetic to those who are exploited. That is a change from the present approach to the problem, in which we tend to punish those who are to be pitied, rather than those who seek to abuse their financial muscle.

I do not suggest that the bill is a final solution to the matter, but it is certainly a welcome step in the correct direction.

16:33

Margo MacDonald (Lothians) (Ind): I confess that the bill is a great disappointment to me. Although elements of the suggested balanced approach to the management and, quite possibly,

the minimisation of street prostitution that was the outcome of the work by Sandra Hood's expert group have been retained in the bill and in the proposed guidance to local authorities, the bill fails to achieve the means of exercising duties of care towards sex workers, who have the right not to be beaten and injured, and towards people in the general community, who have every right not to be alarmed or annoyed by the activities that surround prostitution. Instead, the bill simply introduces an anti-kerb-crawling measure to deter purchasers of sexual services. Although supporters of the bill claim that the legislation in England has resulted in more than 800 men being charged, they cannot point to proof that that caused those men to stop buying sex. If that was the case, far fewer women would be selling sex on the streets.

The bill might give respite to people, such as the residents of Leith Links, who have been caused nuisance because of the proximity of their home or business to a red light zone. I say "might", because in English cities the kerb-crawling legislation has meant that red light zones now move about cities, playing hide and seek with police and residents. I think I am correct in saying that Liverpool intends formally to move its red light zones around. To anyone who is mistaken enough to believe that that deterrent to buyers will shrink the market for prostitution, I suggest that assignments will be made by phone or by internet. Members can look up the internet for themselves and they will find Scottishescorts.co.uk. If they look in the reference bible, McCoy's, they will see that sexual services can be found in Stirling or in the kingdom of Fife. I imagine that few members will want to take me up on that offer because they will not want to be seen reading the book. However, I have done my homework, so I know that the market will not shrink as intended by this simple measure.

Elaine Smith: As Margo MacDonald knows, I signed her original bill proposal that allowed the debate to begin. It was hard to kick-start such a debate in the Parliament. However, in what way does she think that tolerance zones would have shrunk the market for prostitution? Does she agree that—as outlined in "Not for Sale: Feminists Resisting Prostitution and Pornography"—tolerance zones, by their very nature and name, simply lead to tolerance of violence and abuse? I, too, have done some homework.

Margo MacDonald: In the first place, tolerance refers to the fact that the law of the land was put on hold inside a geographical area, which was not satisfactory for anyone. It was not violence that was tolerated; having a management zone, non-harassment zone or tolerance zone was meant to prevent violence. If Elaine Smith has read that book, she will realise that the author advocates a safer zone—a management zone—so that

violence can be minimised. That is one of my main concerns about the bill and it was one of the twin aims of Sandra Hood's committee. Incidentally, we should thank Sandra Hood for the amount and quality of work that went into producing the report.

Another aspect of the kerb-crawling legislation as it stands concerns me—I know that it concerns the minister, too. If the same pattern that exists in English cities is repeated, say in Glasgow, it will be much more difficult for the support services, which help women to exit prostitution when they are ready to do so, to reach the women. We know from experience and from the work that has been undertaken by Neil McKeganey that the support services have to build a relationship with women. Bristow Muldoon suggested that the police could direct the women to services—that is not enough. The person who arrests someone is not the person to build up a relationship with them that is sufficient to convince them that they could muster the self-confidence to undertake the sort of job training that is offered by SCOT-PEP in Edinburgh to get women out of prostitution. The confines of the kerb-crawling legislation concern me greatly.

I admit that the problem of intrusive and alarming kerb crawling presents a real difficulty in Glasgow. There was no such problem in Edinburgh during the operation of the original tolerance zone. Kenny MacAskill is right that there were occasions when the zone did not run smoothly, but I am talking about kerb crawling in particular. That is the case in Aberdeen, where the red light or management zone is located in the docks—which are not part of a residential area—at night, when business premises are shut.

I regret that I do not have more time, because I would like to reply to some of the things that have been said and which are wrong. I asked Fergus Ewing whether he would take an intervention because I wanted to find out whether his attitude to legislation applied to all sex workers. I think that it should. Why should it apply to just the women in the street? Mike Rumbles thought that the market might shrink. I have referred to that. If the market had shrunk, we would be seeing fewer prostitutes. We should remember that there are fewer street prostitutes in Edinburgh and that the level is stable in Aberdeen, whereas in Glasgow the number of prostitutes has risen. Bristow Muldoon said that the police would refer the prostitutes to services.

If we are talking about street prostitution, we are talking about only four cities, and there is no problem in Dundee. In Aberdeen, a potential problem for the general community is managed. That arrangement appears to operate reasonably successfully from the Aberdeen citizen's point of view.

I very much regret having to say that I will not support the bill. I will abstain, because I hope that

amendments will be made to bring the bill closer to the principles that were outlined by Sandra Hood and to what I know to be good practice.

16:40

Pauline McNeill (Glasgow Kelvin) (Lab): I recognise the work of the Executive and the expert group in tackling this complex and difficult issue that affects women. There can be no one who has been following the national news who was not shocked by the recent tragic events in Ipswich, where women were murdered because of their involvement in prostitution. Some of the media references to those women as prostitutes first, rather than women, angered me somewhat.

Street prostitution is not a real choice for women.

Ms Rosemary Byrne (South of Scotland) (Sol): Will the member give way?

Pauline McNeill: I should have already declared my interest as a member of the—

Ms Byrne: Will the member give way?

Pauline McNeill: I ask Rosemary Byrne to let me finish my declaration—if I could have two seconds. I declare my interest as a member of the Routes Out of Prostitution board. Rosemary will need to be brief, as I have quite a bit to say.

Ms Byrne: Pauline McNeill mentioned the situation in Ipswich. Would it not have been a better move by the Parliament to consider a pilot scheme for heroin on prescription so as to bring these women off the streets? For many of them, the cause of their situation is that they are addicted to heroin.

Pauline McNeill: May I deal with that later? I have a section of my speech in which I will address that very point—which I have done three times in the chamber in previous debates.

Street prostitution is not a real choice for women. It is harmful to women; it exploits them; it puts them in danger; it is violence against women. As we know, 90 per cent of the women have serious drug problems and are exploited not just by men who buy sex, but by the sick men who send them out on the streets in the first place.

The current position of women in Scots law is shocking, and it is not equality proofed. The current offence under section 46(1) of the Civic Government (Scotland) Act 1982 discriminates against women because there is currently no corresponding offence that criminalises men in the same way. Let me elaborate. The police will issue two cautions to a woman to establish her involvement in prostitution, and her name is held on the police computer. After that, her involvement in prostitution is referred to as that of a common

prostitute. On the third occasion, she is charged with soliciting and is taken to court, where she is again referred to as a common prostitute. Many commentators think that that in itself is discrimination in our law, as there is no equivalent offence under which people can be brought before the court and referred to in a similar way—as a common thief and so on.

Women are sent to prison not for soliciting, but for their failure to pay a fine. Soliciting is a sexual offence. Although it is not a registrable sex offence, it is not exempt from the Rehabilitation of Offenders Act 1974 when women apply for a job. We still have to address that issue. It is an obstacle for many women attempting to exit prostitution.

The law as it stands makes men invisible. It makes them immune from prosecution whereas women have been punished for centuries by taking part in the same act. The current offence of breach of the peace, a common-law offence, is not an equivalent to what women have endured under our criminal justice system. I very much welcome the attempt the Executive has made to make good law, as well as the Local Government and Transport Committee's report and the Executive's response, which gives the bill the prospect of becoming good law.

The bill as introduced is puzzling to me, though. We say that we will legislate on kerb crawling, yet we exclude it under section 1(6). There is no doubt that prostitution is a nuisance to communities. Anderston, in my constituency, is a well-known red-light area, but it is changing because of regeneration, which means that any tolerance, unofficial or otherwise, is not really possible any longer.

I am alarmed at the tone of the policy memorandum, which does not make any reference to the harm done to women. It relates only to antisocial behaviour. In redressing that balance at stage 2, I would like the Executive to emphasise the other purpose of the bill—I know that that is its commitment. There is consensus that the buyer should be criminalised. We should have an offence that is easily provable in law, and we should retain the provision in the 1982 act to which I referred and use it as a model. If it has been possible to say that women are persistent offenders because of soliciting, we can model a new law to say that men who are persistent kerb-crawlers can also be criminalised. That would seem to be the way to gender balance the law.

Margo MacDonald: To be honest, I am surprised that the member is in favour of retaining the old law on soliciting and loitering. Does that not again tip the balance against the women—the seller—because it will be very much easier to prove that?

Pauline McNeill: That is not what I am saying. I am saying that if women have been referred to as a common prostitute when they have been regarded as having past behaviour on two occasions, the same approach should also apply to men. There is no reason why we cannot model a law that also applies to men. Given what I have said about the discrimination that has existed under the 1982 act, we should ensure that the provision in the 1982 act clearly criminalises men and not women in all sorts of ways.

Inevitably, legislating on the issue does not deal wholly with it. I was happy that Tom McCabe said in his opening speech that we must deal with many other aspects of prostitution. We know that the cycle of women becoming involved in prostitution will not end because we legislate. Our approach must still be about social inclusion. We must recognise that, for many women, the problem is drug addiction.

I will deal with the issue that Tommy Sheridan and Rosemary Byrne have raised. I have asked three times in the chamber why district courts have not been given powers to apply drug treatment and testing orders, given that most of the women end up in this situation because of drug use. If we are serious about the matter, it seems sensible to give the courts the right powers to deal with the women so that we can take them out of prostitution.

16:46

Bill Aitken (Glasgow) (Con): The purpose of the bill is worthy: to deter and discourage street prostitution.

The bill is necessary for several reasons. First, as has been said, there is the danger to the prostitutes themselves. Frankly, they are entitled to exactly the same level of protection as any other member of society. The fact that we may think that an Ipswich situation could not happen in Glasgow or Edinburgh is scant comfort when we realise that six prostitutes have been murdered in Glasgow over the past 12 years and there has been only one conviction. There has also been a series of serious assaults.

Carolyn Leckie: It is not my intention to have a go personally at the member, but I make a plea to members to stop referring to the women as prostitutes first and women second. These are women who are victims and are in prostitution. Please stop describing them only as prostitutes.

Bill Aitken: I made the point that they are entitled to the same protection as everyone else; I thought that that was a fairly inclusive gesture.

There is also the problem of nuisance. The fact is that we have seen a complete change in cities

such as Glasgow, which has enabled the sex trade to move out of the lower area of the city centre into residential areas. Another issue is that shift patterns and work patterns have changed, so when women leave call centres, for example, after an evening's work, they find themselves caught up in the hubris that is part of Glasgow city centre at night. Another issue is that it detracts from city centre amenity. There is a real problem when that nuisance is transferred to residential areas.

The removal of the sex trade to parts of the east end of Glasgow round about the Calton area has rightly caused great concern to local residents. Women who are going in and out of their homes at night are approached by people in cars, and women who are prostitutes patrol around the area, which is offensive to people who are bringing up children and attempting to live a reasonably normal life. Action is therefore necessary.

Action could have been taken much earlier. I have to say, contrary to the comments made by Mr McCabe, that the conduct of kerb crawling is clearly a breach of the peace: in Glasgow, there have been successful prosecutions for a number of years.

Fergus Ewing highlighted some of the evidence that came before the committee. Kerb crawling is a classic breach of the peace: people are being annoyed and feel that they are threatened. Alarm is caused. As Fergus Ewing, who is a solicitor, will know, those are the classic ingredients of a charge of breach of the peace. I feel that action could have been taken much earlier if we had gone down that route.

George Lyon: The member is correct. Does he accept that one of the purposes of introducing this new offence is to make it easier to secure prosecutions in the circumstances that have been described?

Bill Aitken: Yes, but I feel that the common-law position was fairly robust and that, if the Executive, the police and the prosecuting authorities had gone down the route I have described, the matter could have been resolved.

We cannot escape the main difficulty that faces us, which is the fact that prostitution is a by-product of a drug situation in Scotland that is becoming untenable. When I sat in court, the offender in at least 95 per cent of the cases of prostitution that I dealt with was an injecting drug abuser.

Our approach to the problem is bound to fail unless additional resources are invested in assisting women who find themselves in the situation that we are discussing and, as Pauline McNeill rightly says, district courts are given the power to impose drug treatment and testing orders.

Mr Lyon must be a relieved man today. He must be exceptionally grateful to the Local Government and Transport Committee, which has certainly pulled his chestnuts out of the fire. If the bill had gone through without the amendments the Executive now proposes, it would have been facile, to say the least. As Fergus Ewing said, it would have been an enabling procedure for the sort of conduct that we are all anxious to prohibit.

I have to say to Mr Lyon and Mr McCabe that sloppy draftsmanship of that type is unacceptable. To bring a bill before Parliament in the state that this bill was in before yesterday's letter arrived shows a degree of something that is almost neglect of duty. It is, quite frankly, appalling. We shall be able to support this bill today, but only after the last-minute change of heart on the part of ministers, who owe a degree of gratitude to the committee.

16:53

Margaret Smith (Edinburgh West) (LD): I would like to begin by recognising the work of the Scottish Executive and the Local Government and Transport Committee as well as the work of the working group and our colleague, Margo MacDonald, over many years.

Recent events, to which many colleagues have referred, have reminded us of the real dangers that women working in the sex industry face and the need for all of us to do all that we can to protect them from all forms of violence associated with that trade as well as to give them routes out of prostitution.

As we have heard, the bill has a narrow focus and will not, of itself, solve all—or even many—of the problems that are associated with prostitution. However, I congratulate the Executive on introducing legislation to try to redress the current, long-standing, imbalance, which has resulted in the system being skewed against the sellers rather than the purchasers of sex.

The Local Government and Transport Committee is to be congratulated on its report, which highlights difficulties with the practical application of the bill as originally drafted. I am pleased that the Executive has accepted many of the points the committee raised, particularly in relation to kerb crawling, which is of great concern to affected communities. The bill as originally drafted would not have included loitering in a car, yet the evidence from the Association of Chief Police Officers in Scotland and others made it clear that two thirds of incidents of kerb crawling involve private cars rather than the number 23 bus.

I support the committee's suggestion, which the minister has accepted, that the bill should be

amended to include loitering in private cars. Clearly, given European convention on human rights concerns, there will need to be evidence that the accused intended to solicit, but I am reassured that the Crown Office believes that the legislation can be drafted appropriately to take account of that. The Executive's agreement to remove the extra burden of proof about causing alarm, nuisance or offence should also assist prosecutors.

I also welcome the Executive's acceptance of the committee's request that the bill be limited to the purchaser and that the seller should continue to be prosecuted under section 46 of the Civic Government (Scotland) Act 1982. That will send a clear message to those who seek to purchase sex. It will make it clear that, whether in the narrow context of offences or the wider context, prostitution must not and cannot be seen as just a women's issue. Prostitution is a trade in which women—usually the poorest, and often those who are gripped by addiction—sell their bodies to men. Until now, those men have been ignored or to some extent protected by the law, but they fuel the demand for poor, addicted women to sell their bodies on the streets of our country. That is why I support the suggestion that the maximum fine for the new offence should be increased from £500 to £1,000 and welcome the fact that the Executive will seek powers to disqualify kerb-crawlers from driving or to take their vehicles.

I also welcome the committee's interest in alternative rehabilitation projects for those who are engaged in the sex trade. Constantly fining women for selling their bodies simply sends them back out on to the streets to raise more money—in the same way—to pay their fines. Alternatively, they end up in our prisons.

Margo MacDonald: I thank the member for her kind remarks. Would she consider the bill a success if it led to a great number of prosecutions but there was no diminution in the number of women who prostitute themselves?

Margaret Smith: If I make some progress, I may come to that. The bill is one step along the road, but it does not contain all the answers.

I supported Margo MacDonald's bill. As a former Edinburgh councillor, I believed that the zone that operated in Edinburgh for many years had to some extent protected women from assault, allowed relevant services to make contact with street women and contained activities in a particular area. After its demise, I spoke to senior police officers whom I knew well. They told me that the women who were involved in street prostitution were at greater risk than they had been and that underage girls, who had not been involved before to any great extent, were now involved in locations throughout the city.

Prostitution did not disappear; it was just dispersed to other areas, where non-working women were more likely to be harassed and intimidated and prostitutes had less protection. Whatever we do, we must never lose sight of the knock-on impact of our actions.

I support the Executive's position that it is for chief constables and prosecutors to make decisions about how the new offences will be enforced. I welcome the comments of the Lord Advocate, who stated in her letter of 16 January:

"I will ensure that police officers and prosecutors across Scotland review enforcement policy and practice, including the operation of any managed zones ... in light of any new offence passed ... by the Scottish Parliament."

Enforcement by the police must be appropriate to the communities in which they operate.

Given the narrow focus of the bill, I hope that, in time, the Parliament will evaluate its impact and the Parliament's committees, including the Equal Opportunities Committee, will consider what more can be done to improve the lives of those who, through poverty, debt and addiction, are forced into a life of prostitution. I hope that, in time, we will consider whether further legislation is required to tackle other forms of prostitution.

16:59

Carolyn Leckie (Central Scotland) (SSP): I agree with a lot of the points that have been made about the narrow scope of the bill. The most important point is that, if the bill progresses with the concessions that the Executive has made, in no way can it be said that the issue of prostitution has been dealt with. We must come back to the issue. In that context, I am happy to support the general principles of the bill, but I do so only on the basis that it represents a tiny pebble in the water of what needs to be done.

The most progressive thing that the Executive has done is acknowledge that prostitution, whatever form it takes and wherever it happens, is violence against women. Violence against women is set within a continuum of sexism and misogyny, but there is general and pervasive sexism in society at large. That sexism, which is endemic, ingrained and widespread, allows prostitution and violence against women to continue without being confronted, understood or challenged.

Margo MacDonald: I challenge the contention that all prostitution is violence against women because such a contention is gender specific, which prostitution is not.

Secondly, Carolyn Leckie may or may not know women who have chosen to escort. There is a fine line between doing extras after an escorting job and openly advertising oneself on the internet.

Carolyn Leckie: Margo MacDonald has got to the nub of the issue. Prostitution—whether the prostitute is a young man or a young woman; prostitutes are mainly women—is abuse. That takes us to the central discourse and the challenge of passing legislation that will have an effect. Understanding is the key to getting legislation that will change society's attitudes and have an effect.

What choices are involved? How many women are in a position to choose? Many are poor, addicted to drugs and without access to rehabilitation and so on. They are victims of a sexist society that objectifies women and says that it is all right for men to buy women's orifices. Doing so is not all right. That view must be challenged.

I do not have enough time to make all the points that I wanted to make, but I will mention the general discourse. I agree with Pauline McNeill. I am sick to the back teeth of the focus always being on the lifestyles and situations of women and of there being very little focus on men's demand to buy women's orifices—that is the predominant demand. If we accept that prostitution predominantly means women being the victims of men, why should we criminalise women? We must return to that matter.

Dr Sylvia Jackson (Stirling) (Lab): Will the member take an intervention?

Carolyn Leckie: I am sorry, but I cannot take any more interventions.

I return to what Kenny MacAskill said. I am not in favour of decriminalising prostitution; rather, I am in favour of ensuring that the victims of prostitution are protected and the perpetrators of prostitution are criminalised.

The bill has a narrow scope in focusing on street prostitution. In that context, I agree with Margo MacDonald—indeed, I often agree with her arguments and disagree with her conclusions. That said, I pay tribute to the work that she and many organisations and individual women on the cross-party group on men's violence against women and children have done.

Abuse of women on or off the street is abuse, and it is not on. Whether abuse takes place in a sauna, a house or a hotel room does not matter—it is still abuse. We must challenge the demand to conduct such abuse wherever it arises. I accept that a genuine consciousness issue is involved and that men who are involved do not necessarily believe that they have abused women. In that respect, the bill will play a small part in raising consciousness and questioning beliefs.

The research on men's demand for prostitution is limited, but it often includes reports by men that

they have sought the services of women who are abused by prostitution as an act of aggression after they have had a row with their partner. Men often talk in language that dissociates them from the act. Sometimes they have even thought that they have done women a favour; indeed, men have even described the act as an act of charity, as the women have received money for the transaction. In that case, why do they have to purchase women's orifices? If the act is such an act of charity, they should simply hand over the money.

The violence is not only on the streets; it is everywhere—and we do not legitimise it by tolerating it. There is a global context and the phenomenon of the tolerance debate, but where does that come from? There is a multibillion-pound industry that depends on the objectification of women, the proliferation of the abuse of women and the legitimising of prostitution—and it makes billions of pounds. We must be very careful about adopting measures that encourage the proliferation of prostitution, which is exactly what has happened in Victoria, in Australia, and in Amsterdam, in Holland. It is time to look more fundamentally at international examples such as that of Sweden. I do not think that the committee considered enough evidence that countered some of the assertions that were made about the example of Sweden. It is time that we spoke directly to the Minister for Justice in Sweden. This is only the beginning.

17:05

Cathy Peattie (Falkirk East) (Lab): I speak as the convener of the Equal Opportunities Committee. We acknowledge the fact that the committee has come late to the issue, but we have been prompted by serious concerns about the policy behind the bill. The Equal Opportunities Committee feels that it should have had a role as the secondary committee on this important legislation. Nevertheless, we welcome the change in culture, the acceptance of the problem and the fact that the Executive has produced a bill on the issue.

We support the work of the Local Government and Transport Committee and the recommendations it has made, but we feel strongly that this is only a small part of a wider issue and that there may be a missed opportunity to tackle the issue as part of a strategic agenda on violence against women, thus building on the Executive's excellent track record through its violence against women strategy. The committee feels that the Parliament must not ignore linked issues such as support services, keeping women safe and drug rehabilitation. We must acknowledge that the scope of the bill is narrow.

Elaine Smith will raise some of those issues in a few minutes' time.

We feel that the Executive has not really considered alternative methods of tackling prostitution. We have heard, for instance, how prostitution is tackled in other countries. Nevertheless, we welcome the Executive's acknowledgement of the issues and its commitment to make the changes to the bill that were proposed by the Local Government and Transport Committee to ensure that it is improved.

As Margaret Smith said, the Equal Opportunities Committee will maintain a close interest in the bill and will recommend to its successor committee that it does likewise in relation to the wider issues surrounding prostitution. We will urge the committee, at that stage, to consider how it can take those issues forward.

The Equal Opportunities Committee urges support for the bill at this stage.

17:07

Ms Sandra White (Glasgow) (SNP): I welcome the fact that the issue of prostitution is being addressed. I also echo other members' observations on the purpose of the bill. The Executive's policy memorandum states that the purpose of the bill is

"to protect our communities from antisocial activity associated with prostitution in public places."

Prostitution is violence against women. It is harmful to women, it is harmful to children and it is harmful to communities. Although I appreciate that this is a large and complex issue, I am disappointed by the narrow scope of the proposed legislation. I hope that it will be the first step in the right direction towards achieving the objectives that were identified by the expert group on prostitution. I remind members that the expert group had four objectives and that the bill's aim is just one of them. I hope that further legislation will be introduced to achieve the other three objectives, which have not yet been addressed.

I welcome the Executive's commitment to amend the bill in response to the concerns that have been expressed not just by the Local Government and Transport Committee, but by the various agencies that have given evidence to the committee. I thank the committee for its scrutiny of the bill, and I thank the many people who contributed evidence towards that. I was a member of the Local Government Committee when Margo MacDonald's bill was introduced, and I agreed with some—but not all—of what she and others had to say. I am therefore pleased that the issue has returned to the committee and I look forward to debating the Executive's bill at stage 2.

I commend the Executive for agreeing to make robust and serious amendments to the bill, and I welcome the commitment to use the bill to target the other areas that I have mentioned—the other three objectives that were identified by the expert group. One of the good features of the proposed legislation is the criminalisation of the buyer. That is a sensible provision, and I welcome that aspect of the bill.

I turn to the area in Glasgow that other members have mentioned—I am sure that more members will mention it. Of the women whom we know to be involved in street prostitution in Glasgow, 95 per cent are drug users and have other very serious issues that need to be addressed. Unlike the buyers, those people do not have a choice; in many cases, prostitution is the only way they can survive. It is a sad state of affairs that exposes one of the failings of the bill, in that it does not back up action to help and support those very vulnerable women. The Executive should have focused on the need to promote ways out of the terrible trap, rather than introducing legislation that could, in some cases, make things more dangerous for the women involved.

Glasgow saw the effects of that approach when prostitution was forced out of the city centre and Glasgow Green, when residential areas were sprouting up around the harbour and waterfront in a way that is similar to what happened in the Leith area. At the time, many prostitutes simply moved to the Calton area, and we have heard evidence about how communities had to deal with that. The witnesses from that area who spoke to the committee demonstrated the terrible effect that prostitution had on their community, and it is terrible that people have to put up with it. I am reminded of one of the people from the Leith area who gave evidence about that area being designated as a tolerance zone. A woman who was walking to her house one night was knocked down by a car because she would not turn round to speak to the man in the car. Her leg was broken and he just drove away. Because the area was marked as a tolerance zone, he assumed that anyone—young women as well as older people—walking there would be fair game. That cannot be tolerated.

When we consider the legislation, we have to be careful not to repeat some of the mistakes that have been made in Edinburgh and thereby drive prostitution further underground. Prostitution is not as it was shown in the movie “Pretty Woman”. That should be made very clear to some in the media who discuss the issues around prostitution.

I do not believe that Margo MacDonald’s tolerance or management zones—call them what we will—are the answer. We need to enable women to escape from a never-ending cycle of

violence, and tolerance or management zones are not the answer.

Margo MacDonald: A management zone means not only that a potential problem for the general community is managed, but that the services that must be directed at the prostitutes or sex workers can be delivered. We know from experience—all the evidence points the same way—that we have to be able to reach prostitutes where they are working.

Ms White: I was just going to come on to that. I do not agree with Margo MacDonald at all, although I welcome the establishment of the 218 centre in Glasgow and the various other agencies that women who are reduced to prostitution through no fault of their own and who are suffering violence can be told about, without the need for a management or tolerance zone. I am speaking about Glasgow because that is the area I know about.

The Executive should make a real commitment to the re-education of men and women so that they accept that prostitution is not acceptable: it is violence against women, regardless of what the media say.

I would like the other objectives proposed by the expert group to be looked into as soon as possible. The bill is a step in the right direction, but we have to enable the women to get help for their drug addiction, and to educate women and men that prostitution is wrong and is violence against women, no matter what is said about it.

17:14

Elaine Smith (Coatbridge and Chryston) (Lab): The debate must be put in context. It must be recognised that prostitution, pornography and other forms of commercial sex are all part of a burgeoning industry that makes millions of pounds out of human misery. That industry is also undoubtedly part of a wider web of organised crime. It promotes alcohol and drug problems as necessary tools of its trade, and it makes rich men out of a minority of predators while simultaneously ruining the lives of thousands of women and children.

Any legislation that the Parliament passes on the buying and selling of human bodies must be predicated on an understanding of the fundamental underlying truth that prostitution in any form is predominantly male violence against women and children. Indeed, the expert group concluded that dealing with prostitution and its effects should be an issue as much of social policy as of criminal law. Therefore, most of the group’s recommendations related to the need for local strategies, interagency responsibilities and services, and changes in public attitudes. I make a

plea to the minister for further funding commitments and strategies to take that work forward.

The bill is an historic piece of legislation. I commend Margo MacDonald for the work that she has done on the issue over the years, but I am sorry that she cannot support the bill at this stage.

As gender reporter for the Equal Opportunities Committee, I have previously taken evidence on prostitution. Over the years, our committee has also flagged up numerous concerns and recommendations on the matter. Given that the issue is so manifestly gender biased, and given that the Equal Opportunities Committee has been addressing the issue since its inception, it makes no sense—indeed, it amounts to a missed opportunity—that our committee was passed over when the decision was made about taking evidence at stage 1. I agree with what Cathy Peattie said on that.

However, I am not dissatisfied with the Local Government and Transport Committee's report. On the contrary, I think that the report represents a thorough and determined investigation by committee members. I am pleased that the minister has indicated that he is willing to act on the committee's concerns. In particular, I align myself with the committee's recommendation that the new offences should be restricted solely to purchasers. We must lift the cloak of invisibility from men who use women so that the social harm of their behaviour is no longer hidden from their partners, relatives, friends and work colleagues. It must be made clear that such behaviour is socially unacceptable and the committee's suggestion on fine levels might help to achieve that.

Margo MacDonald: Will those provisions apply to escorts and women who work indoors?

Elaine Smith: In my book, all prostitution and abuse of women is violence. We will need to consider what further steps can be taken after the bill is passed. With the bill, we are taking a small but historic and important step.

The provision of alternative disposals and rehabilitation for purchasers is also important. Purchasers must be made to recognise the harm and human misery that they cause. Ultimately, rehabilitation must have the aim of stopping the abusive behaviour. We also need to think about the women involved. It is clear that they enter prostitution for socioeconomic, not aspirational, reasons. Prostitution is not a career choice. However, our society ensures that, once they have entered that situation, women cannot easily escape because we make it an identity. Once a woman has taken money for sex, she is a prostitute. She is then trapped by, and burdened with, that tag for the rest of her life. That is

completely wrong. I am heartened that the Local Government and Transport Committee recognised that the bill's provisions had the potential to stigmatise women who have escaped prostitution and I hope that an answer to that problem can be found at stage 2.

Legislation must make it clear that prostitution is not a lifestyle choice or a simple business transaction but violence, exploitation and abuse. We cannot say that often enough. The vast majority of women who are caught up in prostitution sell their bodies because of factors such as previous abuse, current drug dependency, poverty or violent coercion. Furthermore, they might have become caught in the trap of using drugs to try to cope with what is happening to them. We must remember that. Those issues are firmly within the social justice agenda and are not simply issues of criminal justice.

I recognise that the Scottish Executive is progressing work in other areas, as the minister outlined at the beginning of the debate. The bill must be considered as a small piece of a much bigger picture, but we cannot legislate in a vacuum. Any legal change must be based on a desire to find an appropriate societal response to violence against women and children. Any change should certainly not make the situation worse for victims or fail to target the users and abusers. I trust that the bill will be sufficiently amended at stage 2 to ensure that those aims are adequately addressed.

By legislating in the way that the Local Government and Transport Committee recommended in its report, which the Executive has now accepted, I believe that we can take an important step towards influencing attitudinal change and send a clear message to men and to society that women and children are simply not for sale.

17:20

Tommy Sheridan (Glasgow) (Sol): On 24 October last year, the Local Government and Transport Committee heard from ordinary citizens on behalf of their communities. We heard from Alan Beatson of Leith Links residents association, who described some of the problems that are associated with prostitution in his residential area. He said:

"Some of our members' daughters have been stalked—that is the best way to describe what has happened—by kerb-crawlers."

When I asked the representatives of Calton for all, Amanda Bell and Jennifer McCarey, whether they had similar experiences, Amanda Bell said:

"My daughter has been followed",

and Jennifer McCarey said:

"It is a big issue for women in our community. There is almost no journey that you can make in any direction on the main streets that does not involve you being tracked by a vehicle, especially at quieter times. Men will congregate in the area, stop their cars and wait with their engines revving. People who live in the area know about and see that behaviour. The behaviour is odd and there is no other reason for it. When someone stops their car and opens their window, that is frightening or alarming, especially for young people."—[*Official Report, Local Government and Transport Committee*, 24 October 2006; c 4158.]

That evidence sends a message to citizens throughout Scotland. It was important because, at that stage in our consideration of the bill, the behaviour that was described was not going to be legislated against and was going to be ignored—the bill was not to contain an offence of loitering in a private vehicle. In other words, the evidence from citizens who represented the Leith Links residents association and Calton for all led to a proposed change to the bill. In a small way, that shows the importance of the committee system to the Parliament. We can listen to citizens in Scotland give their opinions on bills, and that can result in changes to legislation. Those changes are vital, because if the Executive had not said that it would lodge amendments on kerb crawling, I make it clear that the Local Government and Transport Committee would have recommended opposing the bill.

However, it has been said and should be repeated that the bill is narrow. It does not tackle the real problem of prostitution in society as a whole. We accept that it does not set out to do that, but I draw members' attention to the evidence that we heard from Cath Smith, who represented Glasgow's Routes Out. When I asked her whether, in the six years that Routes Out has operated, there was evidence of a decline in the number of women that Routes Out works with and in the number of women who are involved in prostitution, she said:

"There is no evidence that street prostitution has reduced. I am more than happy to provide the committee with the figures that I have for Glasgow."

Margo MacDonald: The number of prostitutes in Aberdeen, which employs a different management method, has stabilised, and the number in Edinburgh has fallen.

Tommy Sheridan: Like many other members, I have the greatest of respect for Margo MacDonald and for the work that she has done on the matter. However, I quote Ruth Morgan Thomas of SCOT-PEP in Edinburgh, who said:

"In Edinburgh, 50 per cent of the individuals in the sex industry each year are new to prostitution that year. That figure is not declining. Each year, 50 per cent move on, because prostitution is not an easy job—it is not easy work or easy money ... Regrettably, Government policies are not having an impact on that."—[*Official Report, Local*

Government and Transport Committee, 24 October 2006; c 4131-32.]

That demonstrates the real issue that the Local Government and Transport Committee should address. It is unfortunate that Bristow Muldoon did not take an intervention, because I wanted to ask him to repeat the point, which he made as convener of the committee, that he would call on the Executive to put real resources into drug treatment and rehabilitation places. That is what we must do if we are to provide real routes out of prostitution for the overwhelming majority of women—and some of the men—who are not only introduced to prostitution via their drug addiction but imprisoned in it because of that addiction.

If we are serious about tackling that problem, we need the resources to provide real, tangible assistance that allows genuine routes out of prostitution. The figures show clearly that we are failing women throughout Scotland who are involved in prostitution because we do not have the requisite number of drug treatment and rehabilitation places. I hope that the minister will provide real, new resources for drug treatment and rehabilitation.

17:26

Mark Ballard (Lothians) (Green): If the debate has proved one thing, it is that prostitution is an enormously complex issue. We are faced with the simultaneous difficulties of acknowledging the exploitation that goes with sex work and trying to protect sex workers. We can see and have heard about some of the dilemmas in that balance: more official disapproval of sex work may end up driving that work underground and endangering sex workers but, equally, measures that are intended to protect sex workers may lead to more women becoming involved in sex work and, in turn, lead to more exploitation.

There is a strong local dimension to the debate. In Edinburgh, we have had a discussion about tolerance zones for years. It is clear that prostitution tolerance zones make sex workers safer and that they make it easier to protect and support sex workers and to counsel them out of prostitution; it is also clear that they are favoured by sex workers but are massively unpopular with many local residents. As Elaine Smith demonstrated, many people argue strongly that such toleration creates a situation in which we appear to approve of street prostitution.

Prostitution is an enormously complicated issue and we must measure that complexity against what the bill does. Like Margo MacDonald, I am disappointed by the bill. The expert group on prostitution did a lot of good work on street prostitution and came up with a wide-ranging vision of what we have to do. It talked of the need

for a strategic framework and for corporate and multi-agency responsibility; it talked of the need to influence and educate public opinion; and, yes, it talked about the law. However, given the amendments that the minister has suggested, it looks like we will be left with a bill that tackles kerb crawling. I have no doubt—especially when I hear Kenny MacAskill's and Tommy Sheridan's discussions of the evidence that they heard in committee—that intrusive, alarming kerb crawling is a massive problem for those people who suffer it and a massive public nuisance problem for people who live in communities that are affected by it, such as Leith Links. However, will tackling kerb crawling, which is about protecting communities, do anything about the demand for prostitution, or will it shift the demand into other ways of contacting women—or men, to make the point non-gender biased—who are involved in the sex industry?

The Parliament has ducked the issue of whether selling and buying sex is illegal or whether we can tolerate the trade as long as it happens in a way that does not cause public nuisance—whether through the telephone or the internet.

Dr Jackson: Is Mark Ballard saying that we should do nothing at all? That seems to be his conclusion.

Mark Ballard: No. I think that we need to talk about prostitution. As a society and as a Parliament, we need to talk properly about the issue and about our response to it. Kerb crawling is a minor issue in the whole gamut of issues around sex trafficking and drug addiction, and we are not tackling those issues with the bill. Bill Aitken made some valid points about whether we need a new bit of law, given that it is possible to use breach of the peace to cover these offences, and valid points were made in evidence to the committee about whether a new law could ever be meaningfully enforced and whether the police will be able to use it for anything.

The bill will be dramatically amended at stage 2, so the Greens will abstain in today's vote because we think that the debate is missing the point. We should be talking about prostitution, and a prostitution bill should not deal only with such a narrow issue.

George Lyon: Will Mr Ballard give way?

The Deputy Presiding Officer (Trish Godman): I am sorry, Mr Lyon, but Mr Ballard has finished his speech.

17:31

Paul Martin (Glasgow Springburn) (Lab): Fergus Ewing and Bill Aitken referred to the Executive's so-called U-turn. On many occasions

in this chamber, members have criticised the Executive for lodging amendments at stage 3 rather than much earlier, so I welcome the fact that ministers are willing to make amendments to the bill at stage 2. Many commentators have expressed concern that ministers do not show humility, but I do not see it as a weakness that ministers intend to amend the bill in this instance. I see it as a strength. Their commitment at this early stage will allow the debate to continue.

The clear purpose of the bill is to tackle something that I believe is unacceptable in our communities: the behaviour of kerb-crawlers. Many members have referred to the evidence that we heard from residents of Calton and other communities in Scotland that are concerned about such activity. We heard about the fear of kerb-crawlers that many communities experience, and about the effect that it has on local women.

Margo MacDonald: Will Mr Martin give way?

Paul Martin: I will let Margo MacDonald in if she will just give me a minute.

Margo MacDonald: Which other communities?

Paul Martin: I will come to that shortly.

I also welcome the fact that we will increase the sentencing tariff for purchasers of sex, because the parity that currently exists is unacceptable. Our sending out the message that we will not tolerate the behaviour of kerb-crawlers and that we will increase the sentencing tariffs that are available to sheriffs is a step in the right direction. We made that clear during stage 1.

As I said on a number of occasions during the stage 1 evidence-taking sessions, if we want to deal with kerb-crawlers, we must ensure that a legal remedy is in place. I do not want to go back to the residents of Calton—or the residents of any other community in Scotland, for that matter—to advise them that we have introduced legislation, only to have heard, as we often hear from police authorities throughout Scotland, that the legislation is difficult to enforce. I want to ensure that we get the sections that deal with kerb-crawlers right at stages 2 and 3 of the bill, that we ensure that procurators fiscal and authorities throughout the country recognise that and that we ensure that we deliver what we want to deliver.

Margo MacDonald: Mr Martin has attempted to demonstrate that the problem of kerb crawling is widespread. There is no kerb-crawling problem associated with Aberdeen. Even in Edinburgh, there is now no problem because the sex workers have moved to another area.

Paul Martin: As with any other crime, there is unreported crime. Despite the statistics that I am sure will be available, kerb crawling will take place. If we cannot ensure that legislation is available to

deal with kerb-crawlers, many women will not feel the need to report the crime in the first place. The symbolism of ensuring that we have legislation available to deal with kerb crawling is a step in the right direction.

I pay tribute to the hard work of Margo MacDonald on management zones. She has made her case in an effective and constructive manner. I have experienced her charm offensive on a number of occasions, although she keeps calling me "Michael". However, despite the charm offensive, we will have to agree to disagree. That would be said by almost every member of the Local Government and Transport Committee and almost every member of Parliament.

The test for me is in considering the issues as a parent. Many of us here today are parents and we have shared the anguish of the parents of women who are involved in prostitution and of women who have been murdered in various parts of the United Kingdom, including the women who were murdered in Glasgow, to whom Bill Aitken referred. As a parent, I wonder what other parents want us to do as their elected representatives. Do they want us to promote management zones that would result in their daughters continuing to be involved in such activities, or would they support our examining ways of ensuring that their daughters' lifestyles were diverted and that they became involved in more constructive activities?

I am a parent of two daughters and I support the Routes Out approach. Parents should not find themselves in anguish; many parents are not even aware that their children are involved in such activities, which is why I believe in the Routes Out approach. I agree with a point that was constructively made by Tommy Sheridan: there is a need to consider more effective means of ensuring that resources are available for organisations such as Routes Out. It has made interventions for many women, but has done so at later stages, so we must consider how we can intervene much earlier.

However, that is not the purpose of the bill, and it would be wrong to go off in that direction. For the moment, it is right for us to say that we do not accept the antisocial behaviour of kerb-crawlers and that we want to ensure that legislation to deal with them is enforced. We have to be able to go to the residents of Calton and other parts of Scotland that are affected by such behaviour and say that we will enforce legislation against kerb-crawlers. I will support the bill.

17:37

Mr David Davidson (North East Scotland) (Con): Presiding Officer, I apologise for the state of my throat and voice.

I congratulate the Local Government and Transport Committee on its excellent job. I used to be a member of that committee, so I very much appreciate the work that the current members have done. Without their work, I suspect that members of my party would not be as sympathetic as we are to the bill's passage through stage 1. The committee's work was based on the evidence that it took, so credit must be given to those who gave evidence.

As Mark Ballard said, this is a difficult and complex subject. Members have dealt with the subject thoroughly by pointing out the complexities of prostitution in general and considering what the bill can achieve in particular. I welcome Tom McCabe's approach. Fairly obviously, the bill as introduced was, to say the least, inadequate; it did not deal with the issues that I think the Executive intended it to deal with.

It is a pity that the bill deals with only one of the four recommendations that were made by the expert group—members from different parties have spoken about the narrowness of the bill. However, it is a start and I prefer to have started doing something to just letting things slide.

Tom McCabe made an important point about the balance of blame between the purchaser and the seller; in the past, that balance has been unfair. As other members did, Mr McCabe referred to the Aberdeen tolerance zone. When zones were proposed, the comments that I heard from councillors were simple. They said, "Well, if the Executive is going to decide that we should have tolerance zones, the Executive will have to come and tell our residents that the zones will be where they live." Such comments were pertinent and came from across the parties in Aberdeen City Council.

Margo MacDonald: The management zone in Aberdeen is a police policy; it was drawn up by Grampian police. The zone is in the docks area, where all the industries shut at night and—I think—only three houses overlook the zone.

Mr Davidson: I have simply repeated what others have said to me. They made the comments. I did not go out and ask them for them.

Quite correctly, Fergus Ewing and others spoke about exit strategies. We have to ask why people stay in the profession—as it is called—and why they are there in the first place. We in Parliament need to do more to discover why people become involved. As David McLetchie rightly said, much of the need is based on feeding drug habits, but multiple complex issues are involved. We need to understand why people turn to prostitution.

Everyone agrees that too much violence is used against women in society. In addition to speaking about kerb crawling and the nuisance and threat

that kerb crawling poses to women in our communities, David McLetchie spoke about the Soham murders and the terrible things that went on there. Other members echoed that, including Mike Rumbles, who also referred to the Ipswich murders. There is certainly concern in Aberdeen about kerb crawling around the university area and around the hospital area, which are not in a management zone. Kerb crawling scares people to death; it affects the lives of people in our communities.

Mike Rumbles also suggested that the aim of the bill is to reduce demand for street prostitution but, in fairness, I think that is all the bill seeks to do at this stage. Kenny MacAskill spoke about criminalising those who set out to exploit women. Again, he echoed comments that were made earlier on the non-acceptability of tolerance zones in residential areas.

I acknowledge absolutely the work—and its consistency—that Margo MacDonald has undertaken in this area over the years. The point that she made about there being no duty of care for sex workers is valid. That is part and parcel of the issues that other members addressed in terms of exit strategies, social services support and drug treatment and rehabilitation.

Pauline McNeill gave a very technical speech. She was right that the first draft of the bill was rather puzzling and that the tone of the policy memorandum demonstrated a bias against women.

With his wonderful court experience, Bill Aitken chose to defend the common law and its application in this regard. He asked whether the bill is necessary. As he and other members said, resources will be needed to help the women who are involved. The district courts should be given the power to apply drug treatment and testing orders but—as Tommy Sheridan rightly said—we need facilities if we are to do that. There is not much point in such orders if we do not follow through by putting in place the necessary resources.

Elaine Smith gave quite a stimulating speech on the stigmatisation of women. As I said earlier, Mark Ballard spoke about the complexity of the issue. Paul Martin set out his support for the diversionary tactics that are being used in Glasgow under the Routes Out approach. The Executive needs to consider whether the bill should not only criminalise a couple of activities but provide for the exit strategies and support that are required if street prostitutes—male or female—are to be helped out of prostitution. The Conservatives will support the motion on the general principles of the bill at decision time.

17:44

Ms Maureen Watt (North East Scotland)

(SNP): I thank the committee clerks for their work in keeping track of the changes that the committee wanted to make. I also thank the many people who gave evidence in helping the committee to make its response to the bill as introduced. The debate has been a good one that has not been conducted along party lines. I welcome the changes that the minister announced.

The key purpose of the bill is to tackle the problems that street prostitution causes to communities. As Fergus Ewing said, the women from the Calton area of Glasgow gave the committee powerful evidence in that regard. The committee soon came to realise that the bill would not achieve its stated intention. Right up to our last meeting on it, there was a great chance that we would recommend that the bill be thrown out. I am delighted that we managed to extort the significant changes that the Executive has made to the bill.

In my speech, I want to highlight three key areas, all of which have come to the fore in the debate today. First, as so many members have stated clearly, any buying of sexual services is violence. As Elaine Smith so powerfully said, those who are involved—predominantly women—are the subject of violence, sexual exploitation and abuse. Parliament is out to change such attitudes. People who buy sexual services are the perpetrators of violence that will no longer be tolerated in Scotland. It is anathema that women who solicit on our streets are prosecuted and end up in overcrowded prisons for fine defaulting—and are subsequently stigmatised, as Pauline McNeill rightly said—while the buyers of sexual services are not even identified.

The bill's focus is narrow. I regret that the Scottish Executive chose to tackle prostitution in such a piecemeal way, so I have sympathy with Margo MacDonald, Mark Ballard and other members in that regard. We owe it to the Scottish public to make it clear that violence against women in so-called saunas and massage parlours and in other places is equally unacceptable. Of course, we need action to tackle the drug habits and sexual health of the women on our streets and to address the lack of ways out of prostitution, so that sex workers can secure alternative sources of income. We also need to tackle sex trafficking and we need to deal with people who procure the services of sex workers for others. However, like David Davidson, I have come to the conclusion that we should be thankful that the bill makes a start on the issue.

I am a member for North East Scotland, so I was particularly interested in the minister's views on the management zone in Aberdeen. I was recently out with the police in Aberdeen all night and paid

particular attention to the policing of the zone. Our patrol visited the zone several times during the evening, as well as dealing with all the drunkenness and attacks that go on in Aberdeen of a Saturday night—I am sure that other patrols also visited the zone several times. The area is well covered by closed-circuit television cameras. The minister seemed to indicate that it is for local authorities and the police to work out how to deal with street prostitution. I welcome that approach, which in no way condones prostitution but offers a way of dealing with the problem. When the trial of the person who has been charged with the Ipswich murders takes place, we might well find that the fact that the town has an identifiable red-light district, in which the women look out for one another, helped to ensure that the perpetrator was quickly caught.

Margo MacDonald: I want to associate myself with Ms Watt's remarks and to thank the minister for being sensitive to the work that local authorities have done.

Ms Watt: I am pleased that the Executive has made a commitment to seeking an order at Westminster, after the bill has been passed, to give the courts the power to disqualify from driving people who are convicted of kerb crawling, if appropriate.

I hope that the message that Parliament sends today is that violence towards, and degradation of, women by men who want to purchase sexual services is unacceptable in present-day Scotland. As Margaret Smith said, the balance of criminality is shifting to the purchasers of sex. A person who loiters in a car will not just have their card marked; they will have their car marked. I welcome the bill and hope that its general principles are agreed to, so that we can move forward and produce a bill that will achieve those aims.

17:49

The Deputy Minister for Finance, Public Service Reform and Parliamentary Business (George Lyon): I thank the members of all parties who have spoken in the debate, which has been constructive and serious, as befits the issue that we are considering. The debate has highlighted that the matter is not a simple one, with simple answers and solutions. From whatever angle we approach the problem, there are no easy off-the-shelf ways in which to resolve the problems and concerns that have been highlighted during the debate.

I welcome the support that members have expressed for the bill's key aim of creating new powers to tackle those who purchase sex on our streets, particularly those who cause nuisance to communities by kerb crawling. I appreciate Fergus

Ewing's warm endorsement, although it made me stop and reflect on whether we are taking the right approach. Nevertheless, I accept his support for our actions.

Fergus Ewing: Will the minister advise us whether he will seek further information from the Home Office about the extent to which disqualification from driving has been used as a punishment for kerb-crawlers and about the use of forfeiture of vehicles, which apparently has not been used? Does he agree that it would be extremely useful to find that out, as there appears to be no information at all from the Home Office on the issue, perhaps because that department is not fit for purpose?

George Lyon: I will not respond to that final remark, but I can reassure the member that we have been in discussion with the Home Office. The use of disqualification as a sanction has been encouraged down south, although seizure of vehicles has not. I am happy to provide detailed information on that to the committee at stage 2.

For some time, the police and others have expressed frustration that, although they have statutory powers to deal with those who sell sex, they have no specific tool to deal with the purchasers, who create the demand in the first place. The bill is an important step forward in providing that tool. It will right the wrong, which many members have highlighted, that men have until now been invisible in relation to the offences. They will no longer be invisible if the Parliament endorses the general principles of the bill and passes it at stage 3.

During the evidence session at stage 1, I was aware that the Local Government and Transport Committee had concerns about some details in the bill and wanted us to strengthen it. I gave an undertaking to reflect on the concerns that were raised and, on three occasions, I sent letters to the committee to outline our thinking on the issue and how we would address the concerns. As the Minister for Finance and Public Service Reform outlined in his opening speech, not only have we listened to those who raised concerns, but we will respond actively to the concerns by lodging amendments at stage 2. The issue is not about U-turns and whether the Executive is right or wrong; we have listened to the committee's concerns and will build on the basic principles. The committee agreed that those principles are correct but argued that they need to be strengthened if we are to tackle the problem properly.

Some members might ask why we did not introduce a strengthened bill in the first place. The bill as introduced to Parliament is based closely on the recommendations of the expert group on prostitution, which considered the issues in depth before producing its report. When we put the

proposals out to consultation in 2005, they received a broadly favourable response, including from the police. The offence as drawn up was based on the work of the Scottish Law Commission. Therefore, if criticism of how the bill is drafted is to be handed out, as Mr Aitken sought to do, perhaps it should be directed at the Scottish Law Commission, whose recommendations we adopted in drawing up the bill.

As I said in evidence to the committee, the approach to the problem of kerb crawling in the bill as drafted is similar to that in the English and Welsh legislation, in which the offence is soliciting from a motor vehicle or in the vicinity of a motor vehicle. There were more than 800 convictions for that offence in each of the two most recent years for which figures are available. However, my colleague Mr McCabe and I acknowledge that the committee asked us to go further than the offence in England and Wales in tackling kerb crawling. We have identified an approach that should enable us to do that and we will introduce amendments on that basis.

The essential purpose of the bill is to provide the police with specific powers to tackle those who purchase sex on our streets—that remains unchanged. I am pleased that that has commanded members' support in the debate.

The committee expressed concern about the existence of so-called informal management zones. It sought reassurance that there will be no areas in which the bill will not be enforced. Enforcement is a matter for the police, in conjunction with the Procurator Fiscal Service. The police have a general duty to enforce the law, although they have a degree of discretion in how they do so. We do not think that it would be appropriate to constrain that discretion, either in relation to this offence or more generally. However, I welcome—and hope that members welcome—the Lord Advocate's indication that there will be a review of enforcement policy and practice, including the operation of any managed zones, in light of any new offence that is created by the Parliament. It is vital that enforcement policy takes account of the safety of women who are involved in prostitution—that issue was raised by many during the debate. It must also take account of how it helps to direct services towards those women and the effect of prostitution on communities.

I made it clear on a number of occasions in the committee that our approach to tackling street prostitution cannot rely on the criminal law alone. The women who are involved have complex needs and problems. Many members have alluded to the fact that the vast majority of the women suffer from drug addiction. Many have problems with homelessness and mental health or have

experience of domestic violence or sexual abuse. That is why the guidance that we have produced for local authorities focuses on the work that they and their partner agencies, such as health boards and voluntary organisations, should do to support and assist those women in addressing the underlying problems and to help them find a route out of prostitution. That is the first step in tackling prostitution. A number of members mentioned indoor prostitution and trafficking. Those issues are for further down the line. By introducing the bill, and through the work that we have done to produce guidance for local authorities, we are taking the first step in tackling street prostitution. Further work needs to be done to take the matter forward.

I appreciate that members have not had a great deal of time to consider the Executive's proposals to amend the bill at stage 2. However, we have been able to respond positively to the concerns that were expressed by the committee. I welcome the support from committee and other members for our proposed amendments. I hope that those amendments have assured members that the bill will provide the police with a practical and workable means to take action against those who purchase sex on our streets and especially those who kerb crawl.

I hope that all members will support the legislation. Although it may be a small step, it is nevertheless an important and historic step forward. By agreeing to the legislation, Parliament will send a strong and powerful message that we consider the behaviour of those who purchase sex on our streets to be unacceptable. For the first time, we will have an offence that targets those individuals, whether they are soliciting or are loitering with intent to do so. That offence will be backed by strong sanctions. I therefore urge all members to support the bill at decision time tonight.

Consumers, Estate Agents and Redress Bill

The Presiding Officer (Mr George Reid): The next item of business is consideration of motion S2M-5398, in the name of Nicol Stephen, on the Consumers, Estate Agents and Redress Bill, which is United Kingdom legislation.

Motion moved,

That the Parliament endorses the principle of giving consumers an effective voice as set out in the Consumers, Estate Agents and Redress Bill, introduced in the House of Lords on 16 November 2006, and agrees that the relevant provisions to achieve this end in the Bill should be considered by the UK Parliament.—[*Allan Wilson.*]

17:59

Donald Gorrie (Central Scotland) (LD): Before I feel that I can vote for the legislative consent motion, I would like clarification on three points in the Scottish Executive's legislative consent memorandum.

First, paragraph 6 says that the new national consumer council

"will have a power to make representations to Scottish Ministers"

but that the Scottish ministers do not have to pay any attention to those representations. That does not appear to be a sensible proposition. Will the minister indicate whether the Scottish ministers would take some notice of those representations?

Secondly, paragraph 8 of the LCM says that the bill gives a power to change the arrangements for complaints about water in England and Wales, transferring the relevant functions to the national consumer council. There is no such power for Scotland. What does the minister propose for complaints procedure regarding water in Scotland in the future?

Thirdly, paragraph 10 says:

"The Bill will also enable Regulators in the gas, electricity and postal sectors to prescribe complaints handling standards".

It is not clear whether that applies in Scotland. Will the regulators have those powers in Scotland?

18:00

The Deputy Minister for Enterprise and Lifelong Learning (Allan Wilson): I am pleased to give the member the clarification and reassurance that he seeks. The Consumers, Estate Agents and Redress Bill aims to strengthen the position of consumers. Much of the bill, of course, applies to reserved areas. The part with devolved aspects provides for the creation of a new national consumer council, with a committee

for Scotland to be known as the Scottish consumer council.

The core functions of the council will involve representation, research and the provision of information. That will include the power to make representations to Scottish ministers, but it will not impose a duty on Scottish ministers to act on those representations. We have the power, but Scottish ministers are given flexibility in deciding on the appropriate responses to representations.

The new Scottish consumer council will also have certain powers to investigate consumer complaints, but it will not have regulatory powers. Its remit will extend to all consumer areas, including food safety, which is devolved. Any activities of the council that go beyond the consumer protection reservation in the Scotland Act 1998 will be devolved. It is important that the new council has those powers to enable it to exercise its functions in that area of consumer activity. That is why the legislative consent motion is required. If it is not agreed to, the council will be unable effectively to represent the interests of Scottish consumers.

A number of important points were raised at the meeting of the Enterprise and Culture Committee on 9 January. The Department of Trade and Industry, which is leading on the bill, has taken a careful note of the points that were made and is considering what can be done to respond effectively to those concerns. I know that the DTI wishes to ensure that the current excellent work of the Scottish Consumer Council can continue. We have made it clear to the DTI that the bill should enable the council to continue the work that it is doing now.

As Donald Gorrie mentions, the bill also merges the United Kingdom consumer bodies Postwatch and energywatch into the new council, which will exercise an important Scottish function in relation to postal and energy customers. That function will allow the DTI to address concerns in those areas in Scotland. In particular, the DTI is considering ways to enhance the provisions of the bill to cover prepayment consumers and consumers who are in danger of disconnection. That comes in addition to existing provisions in relation to consumers who are disconnected. The Enterprise and Culture Committee had raised that point.

Turning to the final point that Mr Gorrie raised, I note that the bill will indeed allow

"Regulators in the gas, electricity and postal sectors to prescribe complaints handling standards"

for suppliers, including those who supply to Scottish consumers. However, the Scottish Parliament will retain the ability to create or alter consumer bodies in devolved areas, as we have

already done in relation to water utilities, for example.

I ask the Parliament to support the Executive's motion.

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

Further Education and Training Bill

18:03

The Presiding Officer (Mr George Reid): The next item of business is consideration of motion S2M-5399, in the name of Nicol Stephen, on the Further Education and Training Bill, which is United Kingdom legislation.

Motion moved,

That the Parliament agrees that the relevant provisions of the Further Education and Training Bill, introduced in the House of Lords on 20 November 2006, relating to the devolved matters of training and employment, to alter the executive competence of the Scottish Ministers in respect of services to share information and assistance in relation to employment and training, and in respect of industrial training levies, should be considered by the UK Parliament.—[*Allan Wilson.*]

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

Business Motion

18:04

The Presiding Officer (Mr George Reid): The next item of business is consideration of business motion S2M-5422, 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 24 January 2007

2.30 pm Time for Reflection

followed by Parliamentary Bureau Motions

followed by Stage 1 Debate: Schools (Health Promotion and Nutrition) (Scotland) Bill

followed by Financial Resolution: Schools (Health Promotion and Nutrition) (Scotland) Bill

followed by Debate on the draft Scottish Parliament (Disqualification) Order 2007

followed by Business Motion

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business

Thursday 25 January 2007

9.15 am Parliamentary Bureau Motions

followed by Stage 3 Proceedings: Crofting Reform etc. Bill

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 Standards and Public Appointments Committee 5th, 6th, 7th and 8th Reports 2006: Determinations required under the Interests of Members of the Scottish Parliament Act 2006

followed by Stage 1 Debate: Budget (Scotland) (No.4) Bill

followed by Debate on the draft Scottish Local Government Elections Order 2007

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business

Wednesday 31 January 2007

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 1 February 2007

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—
Health and Community Care;
Environment and Rural Development

2.55 pm

Executive Business

followed by

Parliamentary Bureau Motions

5.00 pm

Decision Time

followed by
Curran.]

Members' Business.—[Ms Margaret

Motion agreed to.

Parliamentary Bureau Motion

18:04

The Presiding Officer (Mr George Reid): The next item of business is consideration of Parliamentary Bureau motion S2M-5420, on membership of a committee.

Motion moved,

That the Parliament agrees that Peter Peacock be appointed to replace Sarah Boyack on the Environment and Rural Development Committee.—[*Ms Margaret Curran.*]

The Presiding Officer: The question on the motion will be put at decision time, to which we now come.

Decision Time

18:04

The Presiding Officer (Mr George Reid): There are six questions to be put as a result of today's business. The first question is, that motion S2M-5338, in the name of Hugh Henry, that the Parliament agrees to the general principles of the Protection of Vulnerable Groups (Scotland) Bill, be agreed to.

Motion agreed to.

That the Parliament agrees to the general principles of the Protection of Vulnerable Groups (Scotland) Bill.

The Presiding Officer: The second question is, that motion S2M-5363, in the name of Tom McCabe, on a financial resolution in respect of the Protection of Vulnerable Groups (Scotland) Bill, be agreed to.

Motion agreed to.

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Protection of Vulnerable Groups (Scotland) Bill, agrees to any expenditure of a kind referred to in paragraph 3(b)(iii) and any charge or payment of a kind referred to in paragraph 4 of Rule 9.12 of the Parliament's Standing Orders arising in consequence of the Act.

The Presiding Officer: The third question is, that motion S2M-5334, in the name of Tom McCabe, that the Parliament agrees to the general principles of the Prostitution (Public Places) (Scotland) Bill, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brown, Robert (Glasgow) (LD)
 Brownlee, Derek (South of Scotland) (Con)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Byrne, Ms Rosemary (South of Scotland) (Sol)
 Canavan, Dennis (Falkirk West) (Ind)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Davidson, Mr David (North East Scotland) (Con)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)

Fabiani, Linda (Central Scotland) (SNP)
 Finnie, Ross (West of Scotland) (LD)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marilyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Johnstone, Alex (North East Scotland) (Con)
 Kane, Rosie (Glasgow) (SSP)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Leckie, Carolyn (Central Scotland) (SSP)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (Moray) (SNP)
 Lyon, George (Argyll and Bute) (LD)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Morgan, Alasdair (South of Scotland) (SNP)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Petrie, Dave (Highlands and Islands) (Con)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robison, Shona (Dundee East) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, John (Ayr) (Con)
 Sheridan, Tommy (Glasgow) (Sol)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)

Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Tosh, Murray (West of Scotland) (Con)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Wallace, Mr Jim (Orkney) (LD)
 Watt, Ms Maureen (North East Scotland) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Monteith, Mr Brian (Mid Scotland and Fife) (Ind)

ABSTENTIONS

Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 MacDonald, Margo (Lothians) (Ind)
 Martin, Campbell (West of Scotland) (Ind)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Smith, Iain (North East Fife) (LD)

The Presiding Officer: The result of the division is: For 108, Against 1, Abstentions 10.

Motion agreed to.

That the Parliament agrees to the general principles of the Prostitution (Public Places) (Scotland) Bill.

The Presiding Officer: The fourth question is, that motion S2M-5398, in the name of Nicol Stephen, on the Consumers, Estate Agents and Redress Bill, which is United Kingdom legislation, be agreed to.

Motion agreed to.

That the Parliament endorses the principle of giving consumers an effective voice as set out in the Consumers, Estate Agents and Redress Bill, introduced in the House of Lords on 16 November 2006, and agrees that the relevant provisions to achieve this end in the Bill should be considered by the UK Parliament.

The Presiding Officer: The fifth question is, that motion S2M-5399, in the name of Nicol Stephen, on the Further Education and Training Bill, which is UK legislation, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baird, Shiona (North East Scotland) (Green)
 Baker, Richard (North East Scotland) (Lab)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)

Brankin, Rhona (Midlothian) (Lab)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brown, Robert (Glasgow) (LD)
 Brownlee, Derek (South of Scotland) (Con)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Davidson, Mr David (North East Scotland) (Con)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Eadie, Helen (Dunfermline East) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marilyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Johnstone, Alex (North East Scotland) (Con)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 MacDonald, Margo (Lothians) (Ind)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Campbell (West of Scotland) (Ind)
 Martin, Paul (Glasgow Springburn) (Lab)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Ind)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Petrie, Dave (Highlands and Islands) (Con)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)
 Smith, Elaine (Coatbridge and Chryston) (Lab)

Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Tosh, Murray (West of Scotland) (Con)
 Wallace, Mr Jim (Orkney) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Byrne, Ms Rosemary (South of Scotland) (Sol)
 Canavan, Dennis (Falkirk West) (Ind)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Kane, Rosie (Glasgow) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 Morgan, Alasdair (South of Scotland) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Sheridan, Tommy (Glasgow) (Sol)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Watt, Ms Maureen (North East Scotland) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

ABSTENTIONS

Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)

The Presiding Officer: The result of the division is: For 88, Against 30, Abstentions 1.

Motion agreed to.

That the Parliament agrees that the relevant provisions of the Further Education and Training Bill, introduced in the House of Lords on 20 November 2006, relating to the devolved matters of training and employment, to alter the executive competence of the Scottish Ministers in respect of services to share information and assistance in relation to employment and training, and in respect of industrial training levies, should be considered by the UK Parliament.

The Presiding Officer: The sixth and final question is, that motion S2M-5420, in the name of Margaret Curran, on membership of a committee, be agreed to.

Motion agreed to.

That the Parliament agrees that Peter Peacock be appointed to replace Sarah Boyack on the Environment and Rural Development Committee.

Dennistoun Dispersal Order

The Deputy Presiding Officer (Murray Tosh):

The final item of business today is a members' business debate on motion S2M-5368, in the name of Paul Martin, on the Dennistoun dispersal order. The debate will be concluded without any question being put.

Motion debated,

That the Parliament welcomes the success of the dispersal order in the Dennistoun area of Glasgow; notes that the dispersal order has been widely welcomed by residents who live in the Dennistoun area; recognises the importance of ensuring that the legal remedies provided by the Antisocial Behaviour etc. (Scotland) Act 2004 are enforced; congratulates Strathclyde Police E Division on its commitment to ensuring that the dispersal order introduced on 13 October 2006 is a success, and believes that steps should be taken to ensure that a comprehensive exit plan is in place after the dispersal notice expires, that there is a local plan to ensure that local youth diversionary activities are in place and that an independent evaluation is carried out.

18:09

Paul Martin (Glasgow Springburn) (Lab): I thank all the members who have supported the members' business motion in my name and those who have stayed, after an extended day's business, to listen to the debate this evening.

During my 13 years as an elected representative, I have never known a community to embrace a legal remedy in the way in which the Dennistoun area of my constituency has supported the dispersal order that has been in place for more than three months now.

In the words of the local community, the dispersal order has been an outstanding success. On 11 January, the *Evening Times* quoted a number of the residents of the area. Marisa Fairweather, of Alexandra Parade, said:

"We need the zone to be extended. The high police presence has had such a positive impact upon residents' quality of life. I'm no longer frightened to go to the shop at night. When I was growing up around here in the 1960s and 1970s there were police on the streets."

Sally Barnett, a clerical assistant at Alexandra Parade primary school, said:

"The community does seem like a safer place since the start of the dispersal zone. I've noticed that the bus shelter outside the school has not been smashed up for a while and neither has the one outside Ladbrokes. They used to be attacked quite regularly."

There are a number of such quotes from local people who support the remedy that has been made available.

I put on record my appreciation of the work of Strathclyde police's E division, Chief Superintendent Scott, Superintendent Marsh and

Sergeant Dougie Stevenson, as well as the work of the front-line police officers who have been involved in the enforcement of the dispersal order.

Many members will have heard me criticise the Strathclyde police force when it has not lived up to the standards that have been expected of it. I believe that I was right to do so. However, it is important to commend it when it has ensured, in a constructive and creative way, that the legal remedies that are available to it are being enforced.

The purpose of securing the debate is not only to raise awareness of the success of the dispersal order, but—given that the dispersal order expired on 13 January—to look towards the future.

We have to consider the possibility of extending the dispersal order in some form. The local community representatives have raised concerns that the dispersal order has expired and that the local community will again become the environment that it was before. There used to be large groups of all ages—this is not just about young people—blocking pavements, preventing local residents from going about their lawful business, urinating on the pavements, gang fighting and causing traders and local people difficulties. In order to ensure that we do not go back to those dark days in Dennistoun, I am asking the minister to consider supporting us in our attempt to have the dispersal order extended in some form, even if that is not the form in which it has existed in the past three months. Doing so would promote the principle that we regard it as unacceptable for large groups to congregate and continue to cause problems of antisocial behaviour in our local communities.

My proposal is, of course, resource intensive. However, I ask the minister to consider the suggestion that front loading this investment in local services will have a positive impact in the long run. If we prevent the kind of antisocial behaviour that we have not seen for three months, including graffiti and a number of other types of vandalism, we might make a cost saving in the long run. I ask the Executive to consider what work can be carried out to analyse the experience in Dennistoun in order to clarify whether there have been beneficial cost savings in the long run, which, anecdotally, seems to be the case.

If there is one failure in relation to the dispersal order, it would be the fact that we have not been creative enough in communicating with young people. Activities are available to young people in the Dennistoun area and many other parts of my constituency but, given that we live in an age of the internet, iPods and mobile phones, we are not creative enough in getting across the message about those activities.

We have to get that right. We communicate with young people in the same way that we did 30 years ago. We need to be more creative and provide more effective information to young people. We should use our schools more effectively to provide the information. I have made the point on a number of occasions that schools should play a more integral role in providing information.

Today, I call on the minister to consider introducing a youth charter that gives young people throughout Scotland a right to information via a website. At present, information is provided on an ad hoc basis. Voluntary groups do an excellent job in providing information, but they do not have the resources to continue doing that. I want information to be provided in a more sophisticated and creative manner that ensures that positive activities are made available to young people and ensures that there is no excuse for them or their parents. There are far too many excuses out there. We need to deal with those excuses and ensure that the information is provided.

As I have said in the chamber a number of times—I make no apology for repeating the point—we should pay tribute to the voluntary organisations, including churches, that play a crucial role in providing services for young people in our local communities. I do not think that we give them half the support that they should get for doing that. They played a crucial role in the dispersal order in Dennistoun by ensuring that young people who were interested were involved in more constructive activities. It is important that the voluntary organisations are commended for that.

We should also recognise the crucial role that local housing organisations have played in the dispersal order and ensure that they are continually supported so that they can continue to bring forward creative solutions. For example, they made proposals to subsidise the cost of overtime for police officers who continue to be involved in the dispersal order. I commend Milnbank Housing Association and Councillor Elaine McDougall for being involved in that.

In the words of the local community, Dennistoun is once again a decent place to live. People can live there without fear. They can walk the streets and go about their law-abiding business. The businesses in Alexandra Parade say that they now operate in a much more positive environment. They want to continue to do that.

Earlier today, during the stage 1 debate on the Prostitution (Public Places) (Scotland) Bill, we talked about accepting humility. I ask every member in the chamber to accept that, when dispersal orders are introduced in the right way

and with the proper preparation, they can work. I ask members to put their political differences aside, accept that fact, and continue the good work that has been done in Dennistoun and other parts of Scotland.

18:18

Ms Sandra White (Glasgow) (SNP): I congratulate Paul Martin on securing the debate. I know of his long-term commitment to the Dennistoun and Springburn area.

Everyone is aware of the misery that is sometimes caused in communities. The two areas in Glasgow where dispersal orders have been used—Knightswood and Dennistoun—are looked upon by most people as good, hard-working areas that have been blighted by antisocial behaviour. It is important to get across the message that we have to break up the gangs that drink, fight and, in some instances, carry knives.

We must remember that, as Paul Martin said, it is not just young people who are involved in antisocial behaviour. It is all age groups. For example, my sister lives in Dennistoun, and I was in Alexandra park a number of weeks ago when I took her young children to the play area. It is a good park, but at the side of the play area there were broken bottles. Four 50 to 60-year-old men were standing there throwing bottles from which they had been drinking. I call that antisocial behaviour, and perhaps dispersal should be considered in that area, too.

From my point of view—it is not political—dispersal orders simply move the problem somewhere else for a short time. They are not a permanent solution. What is needed is proper, council-run facilities with a range of activities. We must ask the young folks and others what they want and provide a range of facilities that are open after school, in the evenings and at weekends.

I have hit my head against a brick wall on numerous occasions when asking why schools with gyms, swimming pools and other excellent facilities do not open for the benefit of the communities that they serve. I hope that the minister will respond to that question. I have received answers from local councils—

Paul Martin: First, Chief Superintendent Scott has said that no evidence exists of serious displacement from the Dennistoun area. Secondly, facilities are available at Whitehill secondary school, and all the churches provide facilities. The issue is the way in which information is presented to young people.

Ms White: I thank Paul Martin for providing that information. However, people come to me from the Knightswood area and say that there are no after-

school facilities for their kids, and that their kids go to other areas in Knightswood when dispersal orders are being used. I am pleased that people are not being dispersed to somewhere else from Dennistoun, but perhaps I will speak to the police about the matter because dispersing people to somewhere else is simply a short-term solution rather than a permanent solution. However, I take on board what Paul Martin said.

Why cannot schools open? Perhaps other schools could follow the lead of Whitehill secondary school and open at certain times.

Paul Martin talked about subsidising the police, but even the Scottish Police Federation has said that that is not the way to go. People in Govanhill pay rent to Glasgow Housing Association and extra moneys for two police officers at weekends.

The problem is a national problem rather than a problem for one area. We should not ask people who pay the same taxes that everyone else pays to pay extra money for extra police. The view of people in Govanhill and everybody else I speak to is that we need a properly funded police force and bobbies on the beat. I live in a city centre and I assure members that there is a lot of antisocial behaviour there. I doubt that a dispersal order would work in that city centre. Seeing extra police on the beat works. People do not commit crimes when police walk around on the beat.

As Paul Martin said, locals have welcomed the dispersal order, but locals also always say, as websites and newspaper cuttings do, that police on the beat are needed and that trouble is stopped when police are seen on the beat. Locals mention dispersal orders, but they constantly talk about having more police on the beat, which is the answer. There should be more local police whom people look up to, respect and are not afraid of. That is the way forward. Young people should see the arrival of the police not as a reaction, but as something that is normal. Having a couple of police officers walking around on the beat is the way to tackle antisocial behaviour.

I worry that we talk too much about dispersal orders and dispersing antisocial people from areas and about such orders being imposed throughout Scotland. People will be made to pay twice, which is not right. Extra moneys should be made available, but I ask the minister to provide extra moneys throughout Scotland for extra police on the beat.

18:23

Bill Aitken (Glasgow) (Con): I, too, congratulate Paul Martin on securing the debate.

There can be no doubt whatever that there are serious problems in the Dennistoun area, which

Paul Martin has been extremely active in trying to address. A dispersal order was obtained and I am pleased that the action that has been taken has been successful. However, I question whether the success that has been achieved and which I applaud has resulted directly from the order or from the high-profile police presence that has resulted from the order. There will certainly be evidence that suggests that the high-profile police presence has been the real reason for the improvement in the situation.

Paul Martin referred to what local residents have said. People are uneasy that, once the order ends, the situation, which has improved radically, may deteriorate. The fears that Paul Martin alluded to may be justified.

Sandra White was right. Antisocial behaviour is controlled significantly by a high and visible police presence. I am sure that members will agree that Conservative members have often said that such a presence is often necessary. Police officers on the street give people confidence and reassurance, and deter from taking action those people who are likely to be the source of difficulties.

I would not like to think that the police presence—which, inevitably, will be diminished when the order comes to an end—will completely disappear from the Dennistoun area. If it does, there will be difficulties. It is too early to call precisely what happens with the application of such orders. It may well be that Chief Superintendent Kenny Scott has not had any sign that the problem has simply been moved on. However, it is early days to make a judgment.

Sandra White was right to say that, although it is extremely commendable that housing associations are making a contribution towards additional policing, it is not really a matter for them. We all pay our taxes, whether through income tax or payments to our local authorities, and we are entitled to receive an adequate police service. If that service is not being received to the extent that the housing associations, in effect, are having to subsidise the police force, it is clear that there are issues to be examined.

Reference has been made to young people. This may sound somewhat old-fashioned, but I recall somebody in my childhood saying that the devil will find mischief for idle hands to do. I sometimes question whether there are enough facilities for youngsters at night. Those who have commented on the matter and praised the voluntary sector for providing such facilities have been right to do so. Nevertheless, I wonder whether a more focused approach is necessary on the part of Glasgow City Council and others to ensure that youngsters have the opportunity to engage in sports, generally let off steam, hang

around with one another and not cause offence to the wider community.

I am pleased that the Dennistoun project has gone well and I hope that it continues to do so. However, I think that it is early days to make any measured judgment.

18:27

Patrick Harvie (Glasgow) (Green): Paul Martin ended his speech by appealing to members across the political spectrum to put aside their differences and recognise the difference that has been made in Dennistoun. As I am sure he remembers, I was against the introduction of dispersal orders, and my view on the matter has not changed. Nevertheless, I will try to put across my view in the same constructive tone that he set. In doing so, I recognise that, as Paul Martin said, a whole community has come to feel that such a measure is necessary for them.

My scepticism about dispersal orders comes from the view that people feeling the need for them is an admission of failure. The quote from Sally Barnett that Paul Martin read out from the *Evening Times* finished by saying that the bus shelters used to be attacked regularly. Vandalism and criminal damage are already illegal; what we are talking about is a failure of public order. It is a public order problem that has become so serious and out of control that a community has come to feel that the situation can be addressed only by curtailing the freedom of everybody, including law-abiding people who are neither behaving badly nor being aggressive or violent, but who are just using public places. The fact that there are worries—which Paul Martin expressed—about what will happen now that the order has ended is testament to that.

Dispersal changes a person's location; it does not change their behaviour. Some would say that a dispersal order sends a clear message, but I feel that the only message that it sends is "Not here" or "Not now". In the case of the Dennistoun order, the message was "Not between these six hours or those 12 hours."

Paul Martin: Does Patrick Harvie accept that, as well as the dispersal order, work has been undertaken with various agencies to highlight the individuals who have been the perpetrators and to find ways in which we can support them and their families? For the first time, we have highlighted those individuals because of the detection that has been in place and we have forced them to live up to the expectations of the community.

Patrick Harvie: As with other aspects of the Executive's approach to antisocial behaviour, some positive interventions are being made; however, they are too often attached to measures

that I feel are unnecessary. Electronic tags are another example of that. We do not need electronic tagging to give a young person a comprehensive and well worked-up package of support measures and mechanisms.

Likewise, we do not need a dispersal order to address the issue of local facilities and who provides them. Paul Martin mentioned that all the churches in his area provide such facilities, but most young people these days are not particularly religious. Perhaps they would rather that those facilities were provided elsewhere. Perhaps they have territorial issues; that is the case in many parts of Glasgow, as well as, I am sure, many other parts of the country.

Other issues that members have mentioned and which need to be addressed are visible policing and the availability of alcohol—I am sure that all members recognise the importance of that.

During the debate on antisocial behaviour, I received correspondence from people for whom such behaviour is a real, serious and continual problem. I also received correspondence from those who expressed simple intolerance of young people hanging about in the streets, even if they are not behaving badly. Young people have a right to hang about with their friends in the streets. They have always done it, and we should intervene only if their behaviour crosses a line, not just because they are in the wrong place.

I have heard it said that some members support the idea of indefinite dispersal orders. Such orders would be a definite admission of failure and we should resist them.

18:31

Maureen Macmillan (Highlands and Islands) (Lab): One of the first dispersal orders—perhaps the first—was made not in a city in the central belt but in the Highland town of Dingwall in Ross-shire. That happened very soon after the legislation was enacted. The local area police commander saw that the order would be a useful tool to deal with a particular situation in the town at the time. That situation did not involve young people hanging about—young people who hang about are not subject to dispersal orders. Such orders are necessary when behaviour crosses the line, as Patrick Harvie said.

One house in a Dingwall housing scheme attracted a rowdy element. The people involved were not young people but people in their 20s and 30s who were drinking and intimidating the rest of the people in the housing scheme when they spilled out from the house into the street, harassing residents going about their lawful business. Because people were afraid and intimidated and there was friction, the situation

ended in confrontations and, in one case, a stabbing.

The local area commander therefore decided that he would use the new dispersal order. The local authority was a bit taken aback at his proposal, but the local councillor—I have to declare an interest, because he happens to be my husband—was instrumental in getting the local authority to agree to the use of the order.

The dispersal order was an enormous success and the community has been turned around. Paul Martin asked what happens next when a dispersal order is over and done with. The police and local authority certainly have to keep an eye on things to ensure that bad behaviour does not build up again.

What happened next in Dingwall was that the Dochcarty residents association was set up to work with the community, so that people could talk to one another and ensure that the community was a good place to live, rather than being a place where everyone had to stay inside their houses at night because they were afraid to go out given what was happening in the street. The community won a community award—people came to Edinburgh Castle to receive it—and the money will be spent on enhancing the community.

The community has also received a woodland grant to do up the woods around the housing scheme. At the moment, they are the sort of woods where young people make drinking dens. The grant will make those woods a place for everyone—a social area rather than an antisocial area.

The neighbouring community, which did not receive a dispersal order, saw what happened in the Millbank estate, and that community has come together with support from the council to form its own residents association. The first dispersal order has changed those parts of Dingwall for the better. It has made people think about their communities, what they want from them and how they can work collectively to make them better places. I do not think that a further dispersal order will be needed because I do not think that the community will ever let things get to that pitch again.

I commend Paul Martin for initiating tonight's debate in the Parliament. It is important that people realise how dispersal orders can turn around communities and be such a positive benefit to them.

18:35

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): Like other members, I commend Paul Martin for bringing to the chamber

his constituency experience—which was in many ways echoed and supported by Maureen Macmillan's speech—of how a remedy for antisocial behaviour can be a stimulus for more social behaviour in many of our communities. That ambition is shared by all members, whether they are constituency or regional MSPs.

In the stage 3 debate on the Antisocial Behaviour etc (Scotland) Bill, I spoke, as a liberal, in favour of dispersal orders. A right to free assembly is a tenet of liberalism, but that right is tempered by the acknowledgement that it might be abused by some people. It is certainly not liberal to tolerate individuals who make people's lives a misery or who plague a neighbourhood with unacceptable behaviour.

As a Liberal Democrat constituency member, in the space of one week late last year, several constituents who were visibly affected by antisocial behaviour in their neighbourhood came to my advice surgery. Doing nothing to offer such constituents respite and support because other people are intolerant of young people is not the right solution. In Penicuik in my constituency, there were examples of unacceptable behaviour towards the end of last year, when more than 100 young people started to congregate around one car park. It was clear that fear and alarm were being caused in the local community. A bus isolation switch was interfered with, leaving people stranded, and local residents' fences were ripped up and set on fire. That would be unacceptable behaviour in any constituency, no matter which political party represented it.

There are reasons why those incidents took place. There is a lack of a broad range of facilities for young people in Midlothian, especially in Penicuik. Since I was elected, I have supported the provision of more facilities. We need not just sports facilities but other amenities to meet the whole range of young people's requirements. Such facilities need to be available both in the evenings and during the day at the weekend. In addition, as we have heard, we need not just faith-based or school-based facilities but genuinely community-based amenities that are relevant to today's young people.

One issue on which I agree strongly with Paul Martin and others is that dispersal orders have provided a remedy but not a cure. After constituents complained to me about a great amount of trouble that took place over one weekend, I asked the local police inspector to contemplate—in fact, I recommended—a dispersal order for Penicuik in my constituency. I make no secret of that fact. I did that because I knew that such an order would bring with it the intensive policing that we have heard about. I also knew that the local authority would be required to provide a

clear plan for facilities for young people. That measure, which was included in the antisocial behaviour legislation, takes a liberal approach, because it means that any remedy involving a dispersal order will include a longer-term solution. In that situation, the police chose not to seek a dispersal order, but I would have supported them all the way if they had done so.

I was struck by one issue that the police told me about. After that weekend, the police detained a number of young people—some were very young—and spoke to their parents. One problem is that we do not have a credible and sustainable solution for dealing with those young people who were detained by the police. Members of my party, including me, have proposed that we should have youth panels to help young people in the community address and change the behaviour of other young people in the local community. Our proposal is not for a kiddie court or a soft option but for a recognition that—whether or not a dispersal order has been used—young people are often the ones who are affected by the behaviour of other young people. As Maureen Macmillan said, if we have a longer-term solution with more facilities and better involvement of young people, we will not need a dispersal order in the future.

I commend Paul Martin for bringing the Parliament's attention to an on-going issue. I hope that, during the election, the issue will be dealt with in as mature a way as it has been debated today in the Parliament.

18:40

The Deputy Minister for Justice (Johann Lamont): I add my congratulations to Paul Martin, not just on securing the debate and on the thoughtful and measured way in which he raised the issues, but on his long-standing commitment to his constituents, which led in large part to the antisocial behaviour legislation being on the statute book. I know that he shares my great passion for addressing issues such as antisocial behaviour, and I hope that I shall not let him down by following his good cop with a bad cop. I shall seek to recognise the positive tone that has been taken throughout the chamber.

Paul Martin opened by talking about how his community had engaged with the process. Something powerful about the antisocial behaviour legislation and the debate about antisocial behaviour has led communities from feeling disempowered and frightened and from not having control of what was going on in their immediate areas to a position in which we can say that, by coming together as communities, they can do things that can make a difference. The message that they are being listened to is hugely positive for communities.

The debate on antisocial behaviour reflects the fact that our communities took an opportunity. Antisocial behaviour was not something that politicians came into the Parliament to discuss; communities drove the issue on to the political agenda and into the priorities of the police, the court system and community services. That is a great testament to all the people in our communities who had the courage to do that.

I regard dispersal orders not as an admission of failure, as Patrick Harvie suggests, but as a recognition of the significant successes of communities in demanding that the injustices that they faced should be confronted.

Antisocial behaviour and the debate about it and how we tackle it are not simply an event but a process. We will learn more and understand more about how the legislation works, how antisocial behaviour is experienced and what causes it, which will allow us to take further measures as appropriate. Dispersal orders do not involve simply one action by the police; they bring with them a range of issues and services, which I can list. They include all the measures that the significant funding to deal with antisocial behaviour has covered, such as community wardens, investigation teams and mediation, and involve understanding why antisocial behaviour exists at different levels and how it can be addressed.

The Parliament has reflected a change in the debate. I was privileged to be at a conference yesterday with the Association of Chief Police Officers in Scotland, at which I talked with people from communities who are working on antisocial behaviour. I was struck not only by the energy of those people, who talked about good practice, but by how the debate has moved on from being about why the measures in the antisocial behaviour legislation cannot work to being about how we make them work and why it is important that they do so. We no longer have a counsel of despair. All sides acknowledge that we need to address a serious issue, and people must be commended for that.

It is important to understand the level of intimidation and problems that have existed—that has been reflected in the debate. I welcome whole-heartedly our police forces' use of the power to stop mindless and irresponsible behaviour by a few. Such behaviour saps communities' confidence and undermines the law-abiding majority's quality of life. In the longer term, it can cause some communities to spiral downwards, so that folk want to get out and public investment in those communities is subsequently lost.

We know that people who have experienced dispersal orders view them as significant. Wherever orders have been used—from Aberdeen

to Dumfries and Galloway and from Dingwall to Sauchie—the public response has been overwhelmingly positive. In all those communities, the quality of local residents' lives improved immediately. There are several examples of people reflecting on that.

We must not forget that dispersal orders were not intended to deal with the underlying causes of disorder; they were introduced to give communities rapid respite and a breathing space while longer-term solutions were found. That is why the legislation set out procedures that the police must follow when deciding on the use of dispersal orders. They must consult the local authority and local people, so that together they can work out ways of sustaining the benefits of dispersal orders. That is not always easy, because some underlying problems are deep seated. However, I am heartened by the way in which all the people who are involved are working together to find solutions.

I understand that in Dennistoun, a range of agencies have come together to determine how they can solve the underlying problems, as Paul Martin said. Glasgow Community and Safety Services, Strathclyde police, the local housing association and local people are all working together to provide young people in the area with productive and interesting things to do when they are getting into trouble.

We do not understate the importance of working with young people. Glasgow City Council was given £4 million over four years to engage in diversionary activities with young people and to consult them on what those activities should be. The provision of facilities is important, but facilities also need to be protected. We must acknowledge that some community facilities that young people in particular want to use are denied them by other young people exercising a veto on who can use them. Addressing that is also an important part of tackling antisocial behaviour.

When it passed the Antisocial Behaviour etc (Scotland) Act 2004, the Parliament asked for an evaluation of the new legal measure of dispersal. Although the immediate benefits to communities speak for themselves, we rightly need to reflect on the longer-term impact of dispersal orders. I am happy to assure Paul Martin that we will reflect on the experience in Dennistoun and consider issues such as displacement.

The extension of the dispersal order in Dennistoun is a matter to be decided locally, where people are best placed to determine, in consultation with local partners, whether that would be appropriate. However, the tools to extend the order exist if they decide that they want to do so.

The Executive has put in place a thorough evaluation of dispersal orders and will report to the Parliament in October 2007. I do not want to preempt the evaluation but, so far, the signs are positive. Communities feel the benefits and the police find the orders to be a useful additional approach. We are also seeing tangible outcomes. For example, in Sauchie there has been a 60 per cent reduction in antisocial behaviour-related calls to the police and the nature of such calls is much less serious than it was before the dispersal order. In Dennistoun, a menu of approaches is being used as the authorities move to the next stage in dispersal.

I agree completely with Paul Martin's point about talking to young people. A huge amount of work is being done on that by groups such as Young Scot, which is a wonderful organisation with a capacity to engage young people in all sorts of ways. Many local organisations are doing the same thing, and we need to talk to them too.

At the heart of the dispersal provisions is an understanding that we truly respect young people if we challenge behaviour that prevents them from achieving their potential. We should not infantilise our young people and say, as we may have done in the past, that they somehow cannot help it because antisocial behaviour is what happens in their communities. We should take them sufficiently seriously to tell them that we want them to address the problems that they face and that we have a right to challenge them about how they affect the communities in which they live.

I reiterate the messages that the First Minister and the Minister for Justice have already given to police forces: they should use the powers in the Antisocial Behaviour etc (Scotland) Act 2004 when appropriate. The people of Scotland expect them to do so and deserve no less.

We welcome the positive messages that are coming from Dennistoun and elsewhere, but we also know that antisocial behaviour remains a challenge and that local communities, strengthened by the dispersal measures, will insist that we continue to address the issues.

Meeting closed at 18:48.

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