

MEETING OF THE PARLIAMENT

Thursday 1 February 2007

Session 2

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Scottish Parliament

Thursday 1 February 2007

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

Green Procurement

The Presiding Officer (Mr George Reid): Good morning. The first item of business is a debate on motion S2M-5494, in the name of Patrick Harvie, on green procurement.

09:15

Patrick Harvie (Glasgow) (Green): All political parties now speak the language of sustainable development. Across the political spectrum, warm words are spoken about the links that join the social, economic and environmental aspects of our lives and the way in which we run our society. No doubt the Executive will want to tell us in glowing terms of the work that it has done to advance green procurement, but the unfortunate reality is that, well intentioned though such work might be, it is not having the desired effect. Social and environmental criteria in public contracts are not the norm and we have a long way to go to change that. Today's debate is intended to open up discussion on how those warm words can be turned into more effective action. By using the huge spending power of the public sector in Scotland, we can achieve social and environmental objectives while providing high-quality public services.

What should green procurement mean in practice? According to the European Commission document "Buying green!: A handbook on environmental public procurement", green procurement can cover huge areas of public spending, from construction materials such as timber to office supplies such as paper. It can also cover transport, electricity from renewable energy suppliers and low-energy devices. Furthermore, it can cover the food and drink that are procured for every school, office, hospital, prison and public building in Scotland.

Maureen Macmillan (Highlands and Islands) (Lab): Will the member join me in congratulating Inverness high school on the fact that its pupils grow their own vegetables on the school grounds and prepare them and eat them in special celebratory school meals?

Patrick Harvie: My party's Highlands and Islands representative tells me that the Inverness example is a wonderful project. I would love to learn more about it. I have seen other examples in East Ayrshire that I will mention in a few moments.

There are a few examples of good practice, but the difficulty is that they are not the norm.

One piece of legislation that could be used to push things forward is the Schools (Health Promotion and Nutrition) (Scotland) Bill, which the Communities Committee is considering. The committee has looked at projects in East Ayrshire such as the Soil Association's food for life programme, which is not only improving the quality of the meals provided but building links between food producers and local communities. When we visited the project, we saw how the links between the school or community and the farmers and producers are having an effect not just on the food that goes on to plates but on the relationship that pupils have with food. Increasing awareness of where food comes from helps to promote a healthier relationship with food for life. Thus, green procurement is not only about how such children are fed but about how we can hit other social policy objectives, from promoting health and preventing obesity to supporting locally owned businesses.

Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): Does Patrick Harvie agree that many of the points that he has made could be backed up by safeguarding existing allotments and creating new ones?

Patrick Harvie: I would love every primary school to have its own allotment. That would be a marvellous idea.

In scrutinising the Schools (Health Promotion and Nutrition) (Scotland) Bill, the committee asked the Minister for Education and Young People whether he would use the bill to push forward those examples by making such practice the norm. However, he told us that he would simply reissue some guidance that was issued a couple of years ago. If the guidance was issued a couple of years ago, it is clearly not having the necessary impact. In its stage 1 report, the committee agreed that something stronger was necessary in light of the new European directive. Given that the Scottish procurement policy note that the Executive issued in March 2006 after the public procurement directive came into effect states that

"there is no intention to publish separate Scottish guidance",

the current situation is that local authorities and public bodies may include social and environmental criteria but are not required to do so.

However, the Minister for Education and Young People seems to have acknowledged that that is not good enough in the amendments that he lodged yesterday, which will beef things up by giving the guidance on social and environmental aspects of food procurement a statutory basis. I

hope that the Executive will agree that the same should happen for the whole of the public sector. Until we get a strong basis for such action throughout the public sector, examples such as the one in East Ayrshire will remain the exception rather than the rule. In a Sustainable Scotland Network survey, only one local authority indicated that it formally linked procurement to other policies. Across many aspects of procurement, it was found that sustainable choices were simply not being made.

The benefits of green procurement could be seen throughout society. For example, in social housing we could make a big difference by ensuring that housebuilders that are bidding for public sector work know before they start that they must demonstrate the highest level of commitment to sustainability in sourcing construction materials and in energy and heating systems. If we did that, council tenants would also enjoy the benefits that are currently enjoyed by some tenants in the housing association sector.

Christine May (Central Fife) (Lab): Will the member take an intervention?

Patrick Harvie: I have already taken a couple of interventions, so I am afraid that I must move on.

For example, the Abertay Housing Association in Dundee is saving tenants around a third on their annual heating bills. If we used sustainable procurement of energy systems in the public housing sector, we could roll those benefits out to everybody.

Imagination is lacking in other areas, too. In the information technology systems that are bought for the public sector, there is an almost total reliance on Dell machines and Microsoft software. Now that Mr Gates has moved on to the next leg of his world tour to promote his new operating system, large numbers of public bodies will no doubt jump unthinkingly to the conclusion that they should throw good money after bad even though better alternatives are available. It is depressing to reflect on the fact that they will have been encouraged by the glorified product launch that has just taken place. Instead, why do we not encourage competition between the various IT products by requiring public bodies to give proper consideration to the basic freedoms that Microsoft products restrict but that other software products open up?

The Sustainable Scotland Network survey made it clear that many local authorities are calling for stronger direction and leadership from the Executive. Given that the European legislation has changed, there is a need for such leadership for the whole public sector. If local authorities alone shifted to green procurement practices, we would benefit from being able to use their £2.3 billion

annual spend on goods and services to help to achieve our social and environmental objectives at the same time as providing those public services. Such a change makes sense at every level. Warm words are not enough to ensure that green procurement becomes the norm. We call on the Executive to give the direction that is required by making social and environmental criteria mandatory in all public contracts and to give public bodies the guidance that they need to make that a reality throughout the public sector.

I move,

That the Parliament notes the transposition into Scots Law of the European public procurement directive (2004/18/EEC) in January 2006 and, in particular, notes the directive's clarification that public bodies may legitimately specify social and environmental criteria in their procurement contracts; welcomes the publication by the European Commission of *Buying Green!: A Handbook on Environmental Public Procurement* but regrets that Scottish-specific guidance on the matter is not currently available, and calls on the Scottish Executive to make social and environmental criteria mandatory in all public contracts and to issue guidance to all local authorities and public bodies to enable them to meet these requirements.

09:22

The Deputy Minister for Finance, Public Service Reform and Parliamentary Business (George Lyon): I welcome what Patrick Harvie has said this morning. I think that all members are firmly behind the idea that we need to take steps to ensure that green procurement underpins the approach of all public agencies throughout Scotland to sourcing materials.

I should declare an interest. As a farmer for many years and as a member of NFU Scotland, I fought long and hard to try to ensure that local sourcing of food and local food networks were firmly accepted by supermarkets and those who procured on behalf of public agencies. I have a long-term interest in the matter.

Green procurement has long been recognised as important for Scotland. Indeed, the partnership agreement states:

"We want a Scotland that delivers sustainable development; that puts environmental concerns at the heart of public policy".

The motion implies that the Executive has failed to do that in its procurement activity and has not issued Scottish guidance. That is simply not the case. The Executive's procurement website already contains guidance and information on sustainable development for both purchasers and suppliers. The website also provides links to guidance from other sources, such as the Office of Government Commerce and the Department for Food, Environment and Rural Affairs. It also includes a link to the European Commission

handbook "Buying green!", to which Mr Harvie referred.

Patrick Harvie: I acknowledge that the Executive's procurement website contains links to many guidance notes, but I ask the minister whether I am misunderstanding something. Scottish procurement policy note 4/2006 states:

"there is no intention to publish separate Scottish guidance"

on the changes that were introduced as a result of the coming into force of the European public procurement directive last year.

George Lyon: I was just coming to that issue. We have a consistent and comprehensive suite of guidance documents for purchasers on the treatment of social and environmental issues in public procurement. Not all those documents are Scottish—as I said, some of them are from DEFRA and the European Commission. The key issue is whether we agree with the guidance in those documents. It is sensible to make available to purchasers that comprehensive suite of guidance.

It is important to point out that, while successfully delivering green procurement, public purchasers must still achieve two fundamental objectives, the first of which is value for money. I hope that Mr Harvie and the Green party agree that Scottish taxpayers have a right to expect their money to be spent wisely and effectively. Value for money in procurement is crucial to delivering high-quality and cost-effective public services. The second fundamental objective is to award contracts that are legal. In other words, it is important that public bodies ensure that their procurement activities are undertaken within the scope of European Union law.

Richard Lochhead (Moray) (SNP): Will the minister give way?

George Lyon: I am sorry, but I do not have a lot of time.

Thankfully, we now have greater flexibility to ensure that social and environmental objectives are taken into consideration. The Executive is clear that there is scope, where relevant, as indicated in our guidance, to include environmental and social criteria in public contracts. The Executive leads by example on that and has done so for several years. I will give members a sample of the guidance that we have issued. We have a web page that is dedicated to corporate social responsibility in procurement and which contains our green procurement guidance. We have issued guidance on buying legally logged timber from sustainably managed sources and Scotland-specific guidance on how to incorporate sustainable development into the procurement of

food and catering services, for example for school meals. The hungry for success programme is a good example of the Executive's success in that matter.

In line with the recommendation in John McClelland's report, "Review of Public Procurement in Scotland: Report & Recommendations on public procurement in Scotland", the Executive is working on plans to establish a single point of inquiry. We are in discussion with key stakeholders and hope to make an announcement shortly on how that will work and how it will fit in with green procurement.

There are good examples of local food procurement. Those successes were helped by the Scotland-specific guidance, which we issued as far back as 2004, on encouraging local suppliers to become more involved in public procurement, for example by supplying schools, and on supporting local suppliers of fresh produce without breaking EU procurement legislation. We realise that small and medium-sized enterprises may find the process bureaucratic, which is why we have been in dialogue with representative bodies on how to open up opportunities for such businesses to bid for public contracts. We have delivered a number of successful outcomes, which I would discuss if I had more time.

The Executive's track record demonstrates that we have led from the front on green procurement and we will continue to do so. I hope that, at decision time, colleagues will support the amendment in my name.

I move amendment S2M-5494.4, to leave out from first "notes" to end and insert:

"recognises the Scottish Executive's record on sustainable/green procurement; notes that Scottish-specific guidance on sustainable procurement for public sector buyers and sellers is available on the Executive's website; notes that the Executive has issued best practice guidance on sustainable procurement, including a contribution to the Best Value toolkits, to local authorities and public bodies, and welcomes the contribution which public procurement has made, and will continue to make, to the achievement of the partnership commitments to a successful, sustainable Scotland."

09:28

Richard Lochhead (Moray) (SNP): I find myself in the unusual situation of agreeing with the Conservative party's amendment in a debate on the environment, which makes me realise that there is a growing consensus in Scotland on the threat of climate change to our nation and the wider world—even the Conservatives are on board these days. The debate that the Green party has brought to the Parliament is an important one and will involve a consensus on many of the issues that are discussed. We all agree that Scotland can

play a role in tackling climate change and that, through Scotland's £30 billion central budget and the budget of United Kingdom departments and other public authorities in Scotland, we can help to create a low-carbon society in Scotland and take the environment into account across the board.

We must realise that we can influence the debate through public procurement. As Patrick Harvie said, the issue is not only about helping the environment but about creating jobs in Scotland. If we think local, we will create more local jobs in our communities in Scotland and save cash for the public sector in the longer term, through the adoption of energy efficiency and other measures. However, we must raise awareness in every single public body in Scotland, whether local schools and hospitals or central Government departments. We must also remove legislative obstacles that prevent such bodies from using their budgets to buy environmentally friendly goods and services. We must ensure that all staff in public sector bodies are trained so that the issue is at the centre of their consciousness and that, day in, day out, they think about how they can help the environment as they go about their daily working lives in the public sector.

Patrick Harvie mentioned the food for life initiative, details of which were sent to all members prior to the debate. That is not only about helping local businesses through local procurement and helping the environment through cutting down food miles but about improving people's health. Local food is healthier than imported food, for example because it is often not as processed, which is another key reason why we should promote the food for life initiative. I hope that the initiative is expanded outwith the Highlands and the other areas where it has been put in place so far.

I sought to intervene on the minister earlier to raise an issue that a local authority worker brought to my attention a few months ago about a move to centralise contracts in local government in Scotland, I presume, to achieve economies of scale across local authority areas. However, that runs counter to any effort to encourage local procurement. I hope that that issue is being addressed.

George Lyon: John McClelland's report on procurement points out the necessity of ensuring that procurement is based on value for money, but it accepts that we must ensure that small and medium-sized enterprises can access the procurement process. I am sure that, when the forward work programme on the McClelland recommendations is announced, that matter will be addressed in it.

Richard Lochhead: I hope that that will help and provide comfort, but we must bear in mind the slight difference between putting pressure on local

authorities to save money through centralised contracts and legislative measures.

One reason why public procurement is so important in greening our economy is that it stimulates the market for renewable energy technologies and other green products. If the public sector in Scotland spends tens of millions or perhaps billions of pounds on green products, that will increase demand for products such as solar panels or other renewable energy technologies. Prices will fall, which will allow the general population in Scotland to access such products more easily, as they will be more affordable. That is one reason why it is so important that we use public sector finances on green procurement. We must also ensure that appropriate information is available to authorities through eco-labelling and that there is traceability, so that they know that products that they buy are genuinely green.

My amendment refers to the Environment and Rural Development Committee's report on its inquiry into climate change. I was a member of the committee when it produced that report, in which the committee expressed frustration about the difficulty of getting information from Government ministers on what progress has been made on using the Scottish budget to promote green procurement. I hope that the minister will address that issue in his closing speech.

I move amendment S2M-594.3, to insert at end:

"and further calls on the Executive to report to the Parliament, prior to dissolution, providing details of any measures taken, and their results, in response to the call made by the Environment and Rural Development Committee in its report published in May 2005 for public procurement to be used to tackle climate change."

09:32

Murdo Fraser (Mid Scotland and Fife) (Con): I congratulate the Greens on devoting some of their debating time to the important issue of public procurement. I do not want to disturb Patrick Harvie too much, but there is a worrying degree of consensus in the Parliament on the importance of the issue and on the practical solutions that we want to be put in place.

The issue is one for the business sector, particularly small and medium-sized enterprises, and for environmentalists, because many of the measures that we want to take to change procurement are driven by an environmental agenda. The procurement problem has two distinct elements. The first is the difficulties that businesses, especially small businesses or social enterprises, face in tendering for contracts as a result of the volume of bureaucracy that is involved. Many small companies simply do not have sufficient time or resources to go through a different application procedure with each and

every public body with which they tender. One local authority will have a different set of procedures from the next, and the health boards, the Scottish Prison Service and the Executive will all have different procedures again. That creates a huge bureaucratic burden, particularly on small businesses, as larger enterprises can afford to employ dedicated procurement staff. Therefore, many small businesses simply opt out of bidding for procurement contracts, because it is not worth their while, which is a desperate pity.

I recently spoke to somebody in business who said that the best message that he can give to government is, "Don't give us a grant; give us an order." If the huge public sector spend could be divvied up a bit more fairly so that it reached more small businesses, the benefit to the Scottish economy would be tremendous, particularly through the support for the smaller business sector.

I acknowledge that the Executive is taking steps to address the problem through, for example, the introduction last January of the Public Contracts (Scotland) Regulations 2006 (SSI 2006/1) and the Utilities Contracts (Scotland) Regulations 2006 (SSI 2006/2), and the work that John McClelland has done in his review. However, John McClelland identified problems throughout the public sector. He called the approach to procurement policy "fragmented" and said:

"Collaboration within organisations and across the sector ... has not been completely effective and must be improved."

He also said that the best examples of procurement policy had become mere "islands of excellence".

The second problem with procurement concerns the difficulties that some public agencies face. They often have the interests of small businesses at heart, but they are trying to administer contracts within the awkward straitjacket of European law and regulation.

Mark Ballard (Lothians) (Green): Murdo Fraser talks about the straitjacket of European regulations and, in particular, the European public procurement directive, which is mentioned in the Green motion. The directive does not allow discrimination on locality but allows it on environmental performance, which could include factors such as food miles and freshness, which would imply locality. Why does his amendment delete the call to make those environmental criteria mandatory, which would be the only way to ensure that local issues were part of contracts?

Murdo Fraser: There are different ways of approaching the issue. The problem is essentially that many public sector bodies are prepared to hide behind their interpretation of the European

rules instead of trying to work their way round them. If Mark Ballard looks at our amendment, he will see that it calls for a dedicated procurement unit in the Executive, which would be tasked with finding ways round some of the European regulations. As Mr Ballard said, an examination of the detail of European regulations often reveals that there are ways to get round them, such as by raising environmental issues.

I will say a little bit about how the Conservatives would address the problem. I mentioned our proposal for a new, dedicated procurement unit within the Executive. Such a unit would act as a single point of entry for the whole public sector and would process all the statutory requirements that a firm needed to fulfil before it was able to tender in a single step. The unit would also be charged with examining some of the more contentious aspects of procurement, such as aiding and encouraging social enterprises or small businesses in tendering and, of course, the promotion of local food, about which my colleague John Scott will talk more in a moment.

There is a general consensus on the issue and all parties are heading in the same direction. I am grateful to the Greens for allowing us the opportunity to debate these important subjects and I hope that the Executive will make more concrete proposals for improving the situation.

I move amendment S2M-5494.2, to leave out from "and calls on" to end and insert:

"further regrets that, whilst there are some good examples of local food procurement in Scotland, as the Environment and Rural Development Committee's 8th Report (2006) notes, 'there is no sense that the Executive has a robust strategy for rolling this out'; further regrets the bureaucratic hurdles faced, especially by small and social firms, in tendering for public contracts, and therefore calls on the Scottish Executive to establish a dedicated procurement unit to act as a single point of entry for the public sector and to be tasked with taking forward ways of procuring local produce without contravening European law."

09:37

Christine May (Central Fife) (Lab): I am pleased to open the debate for my party and I welcome the Green motion. However, we must recognise, as other members have done, that the debate cannot only be about the scented-candle thinking that might come out of sitting in a circle in the lotus position developing policy. There are elements of such thinking in what the Greens have said this morning, but procurement is extraordinarily complex and highly regulated. There is a considerable amount of legislation on it and it involves competing priorities. There is pressure from council tax payers and income tax payers to keep tax low and pressure from large

corporations, which see opportunities to obtain business in large, aggregated contracts.

Procurement is about the practical application of the language of ambition, which is what we talk about when we discuss sustainable development. To date, the Executive has a commendable record on seeking to find a way through the minefield of regulation and legislation and on encouraging and helping to develop Scotland's businesses and companies.

Patrick Harvie: With the serenity of one who has never achieved the lotus position, I ask Christine May to acknowledge that what some have described as "islands of excellence" and others have termed single examples of good practice are not the norm. However comprehensive the Executive's suite of regulations and policy notes is, it is not having the desired impact throughout the public sector.

Christine May: I will talk not about an island of excellence but about a peninsula of excellence—Fife. When I found out that I was going to speak in the debate, I phoned up the chief procurement officer in Fife Council and asked for some statistics on how the council has performed under the guidance that is available to local authorities. In the financial year to the end of March 2006, 84 per cent of the £130 million of contracts on work, services and supplies that Fife Council let went to the private sector and 16 per cent went to internal contractors, who procured externally. That meant that £28.5 million went to the private sector in Fife and £52 million to companies throughout Scotland. That includes food contracts, the majority of which went to local companies.

Fife Council's procurement website—which, I accept, is currently under review—is targeted at small and medium-sized enterprises within Fife. It contains information on current tenders, a suppliers guide and the complete contract programme with values, information on when contracts will be let and details of whom to contact. The social and environmental criteria that are referred to in the European directive and the Green motion are fundamental features of Fife Council's contracting policy.

However, there is a lack of clarity in the current regulations and everybody would welcome clarification, although not everybody wants to be the first test case. We must ask how we can influence the buying policies of wholesalers with whom contracts—particularly food contracts—are let, because that is where the greatest opportunity for local small and medium-sized enterprises lies. As a Co-operative Party member, I encourage small and medium-sized enterprises to consider the opportunities for getting together under Co-operative Development Scotland to aggregate their power and increase business locally.

I am pleased to support the Executive's amendment.

09:42

Robin Harper (Lothians) (Green): We have heard from Patrick Harvie about the opportunity that arises from the increased use of social and environmental clauses in public contracts. That opportunity is currently being wasted. We should not spend money to the detriment of social justice or environmental protection and sustainability. In other words, we should not invest in things that will not produce future sustainability. The Executive's rhetoric makes it plain how much it values—or claims to value—progress towards a sustainable Scotland. However, some of the money that is spent in our name—in fact, too much of it—remains part of the problem, not part of the solution.

Patrick Harvie spoke about his experiences with the Schools (Health Promotion and Nutrition) (Scotland) Bill, which is currently going through Parliament. The guidelines on green procurement have failed to have the desired effect and the problem clearly goes far beyond the sourcing of healthy food for school meals. I will consider a closely related issue: the provision of cooking facilities in new schools throughout Scotland. I have learned that some brand new schools are being built without proper cooking kitchen facilities. Instead, they are being designed with simple provisions to heat up pre-packaged school meals that will be imported from elsewhere, on the Edinburgh royal infirmary model, which is widely disparaged.

Two issues concern me. First, although there is no doubt that such a school will cost less to construct than one with the kind of kitchen that all schools used to have and that that will save public money now, we need to look beyond the capital cost of buildings and focus on the whole-life costs and the long-term savings. That consideration should include, for example, insulation and the kind of heating that school buildings have. What are the real costs of buying pre-cooked meals that were frozen in a factory and brought in on a truck and which contribute nothing to the local economy? Unless we take a close look at the long-term financial implications, we cannot possibly take advantage of the real, sustainable best value that sustainable procurement can offer.

Christine May: What information does the Scottish Green Party have on the local and national impact that changing school building contracts to require a kitchen in every unit would have on taxation?

Robin Harper: We do not have any; we are flagging up the problem. That is a tacit admission

that there is a problem to be solved. Perhaps the Executive needs to address it.

Christine Grahame (South of Scotland) (SNP): Does Mr Harper agree that Christine May might get the answer to her question if she read the evidence that was submitted to the Communities Committee? Under the contracts, people cannot even change a plug point let alone put in a new kitchen.

The Presiding Officer: You have about a minute and a half left, Mr Harper.

Robin Harper: I must continue quickly, then.

As Christine Grahame has just pointed out, once a school has been built with such facilities, the door has essentially been closed on any opportunity to provide children with locally sourced, freshly prepared, healthy school meals.

Mark Ruskell has spent a great deal of time in the past couple of years campaigning for sustainable energy systems to be installed in high schools in north Perthshire, an area that is blessed with abundant forestry. A biomass heating scheme would lend itself admirably to a new school project but, although highly economical to run, such a system would cost more to install. However, it would be investing for the future.

We acknowledge that the Executive recently created a relatively small but nevertheless welcome biomass fund, which is a step in the right direction. However, the money is limited, and too many schools and other public buildings will continue to receive heating systems that are cheap to install but expensive and environmentally unsustainable to run.

I wish that we could be like the London borough of Merton, which four years ago challenged everybody on the issue. It was taken to court, but it won all the cases. It now insists on green energy contracts for all new buildings that are built in the borough, so that 10 per cent of the energy comes from sustainable sources. It had the courage to challenge the regulations. Realising that it is a question not so much of a way round but of a way through the regulations is important.

09:47

Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): I thank the Green party for introducing the debate today. Whatever the result of the vote, we are all singing off the same sheet. The process of the debate itself is constructive and takes the Parliament a step in the right direction.

I want to speak about the potential of Scotland to promote corporate social responsibility—a subject that is close to my and other people's

hearts. The Greens and others have previously said that it is regarded as something of a panacea, but that is unfair to the many businesses in Scotland that are showing leadership by implementing innovative practices and making a difference with their environmental and social practices. Some would like to beat business with a stick, but I feel that we are better to offer a carrot.

Procurement can be a great driver in corporate social responsibility. The corporate responsibility coalition—CORE—campaign to apply ethical criteria to procurement is gathering momentum in Scotland, with Oxfam and no less than 130 other charities supporting it. However, such measures should not preach virtue to business, but should demonstrate that it is of benefit to business. The most successful businesses are those that put their financial, social and environmental concerns together to make a triple bottom line. Such an approach motivates and improves the productivity of staff—an area that in Scotland we need to improve. It cuts the costs of running a business by producing less waste and using less energy. The lean manufacturing initiative run by Scottish Enterprise has helped numerous companies to improve their operations in that way. That approach can also improve links with the community, creating trust in and support for the company and the people who work for it.

As I know from personal experience, often the smallest businesses reap the biggest benefits from adopting such practices. With a procurement policy that encourages businesses with sustainable policies, we could increase the number of small innovative businesses that gain contracts in the public sector. Social enterprises would also benefit, as responsible practices are a precursor to their business model, and we should support them in every possible way and promote them more seriously as a business model. That task is being undertaken at the moment, and we are seeing steps in the right direction, but the Executive should not lose sight of it.

As individual MSPs in our constituencies, we should be mindful of green procurement. Returning to Patrick Harvie's motion, and as Christine May rightly pointed out when she mentioned Fife, measures can be taken at a local level, often with MSP input. I have no reason to believe that that is not happening, especially considering Maureen Macmillan's point about high school food.

My Green colleague from the Highlands, Eleanor Scott, may be aware of one small example. The Forestry Commission Scotland has built an innovative new office near Bettyhill in Sutherland. It is made out of trees that were felled locally, moved a minimal distance and built into an office. She has probably visited it, but if not it is

worth a visit. However, the point is that it is completely renewable and green and the timber was moved the least possible distance. There is great potential for housing, which we desperately need in the Highlands, to be built using that construction method. I encourage members in the Highlands to consider that. If we take a look in our own back yards, we will see opportunities and developments that we can take forward.

I will close at that point to give you extra time, Presiding Officer.

The Presiding Officer: Thank you, Mr Stone.

09:50

Richard Baker (North East Scotland) (Lab):

As someone who represents a region with many rural communities, I understand the importance of green procurement and its potential to encourage sustainable local industries.

The first issue that often comes to mind is the public procurement of food, because we have such a strong farming industry that is responsible for high-quality produce and high standards of animal welfare. In procuring local food, we make an important contribution to reducing our carbon footprint because of the smaller distances that produce has to travel to reach its point of consumption.

It is nonsensical on so many levels that we can go into supermarkets and see meat from South America or vegetables from the furthest corners of the world when there is so much high-quality local produce and such demand for local food from customers. It is right that many members encourage retailers to source more local produce, and it is important that we encourage public agencies to do the same.

I welcome the Green party giving us the chance to debate the issue, but although there is broad agreement across the chamber, I do not run with the negative aspects of the motion. It is clear that there is a genuine wish on the part of the Executive to encourage green procurement, and if the European Commission is now moving in that direction too, that is hugely welcome. However, let us not pretend that this is an easy area in which to implement policy.

Patrick Harvie: Does the member agree with me, and clearly with the Minister for Education and Young People, who has lodged amendments to the Schools (Health Promotion and Nutrition) (Scotland) Bill, that green procurement needs a legislative footing? Does he agree that it should be applied throughout the public sector rather than just to school food?

Richard Baker: We have to pursue the most effective delivery route. Sometimes that is

legislation, but other times we have too much legislation.

My point is that, for example, the document "Buying green!" states at the beginning that it is an indicative document. Of course there has to be care that the rules are being followed, because otherwise there are consequences, but that is not to say that real progress on green procurement cannot be made and that such progress is not being encouraged.

We have already heard from Christine May about the progress that is being made in the kingdom peninsula, and we have the potential to encourage green, local procurement through the establishment of co-operatives. In addition, the Executive has set up the co-operative development agency.

Fife is not an isolated example of where green procurement is being promoted locally. We have heard about case studies in East Ayrshire, which showed that it is possible to follow local food procurement policies with benefits for producers and for the quality and freshness of produce while still meeting European procurement rules. The Executive is working with the Association for Public Service Excellence, Scottish Enterprise's food and drink team and NFU Scotland to ensure that local authorities throughout Scotland, as well as food and farming interests, are aware of the findings of the case studies. I will press the issue with Aberdeen City Council and Aberdeenshire Council, to ensure that they are aware of the case studies and are doing all that they can to engage in green procurement. There is a role for the Executive, but there is also a role for us as local members to work with our own local authorities.

In four minutes I do not have time to go through all the Executive's other activities on green procurement, but the minister has referred to them and they are many. Labour's policy states our belief that local authorities have a big role to play in addressing environmental issues, and we want to ensure that effective environmental procurement policies yield direct economic and social benefits to local authorities and communities. We are committed to the policy and are already promoting it through our work in the Executive, so let us recognise that the agenda is shared across the chamber and by the Executive. Not only is it good for Scotland's producers, it is good for Scotland as a whole and for the global environment. I commend the amendment in the name of the minister.

09:54

Jim Mather (Highlands and Islands) (SNP): I, too, congratulate the Greens on securing the debate. It is easy to be totally supportive of green

procurement, as there is an environmental rationale, a local rationale and a social rationale. Furthermore, from an economic perspective, there is the prospect of fostering more indigenous supply, bringing better produce to market, boosting the nutritional quality of produce and even boosting the tourism experience in Scotland. All of that is important, as is value retention and boosting the viability of local jobs and businesses. There is also the possibility of clawing back manufacturing and reworking, and triggering development, research and new start-ups. The Greens' *bête noire*, Bill Gates, claimed this week that the service sector is pretty much limitless. The same could be said for green procurement. It is, as the minister said, openly and provably EC-compliant. It is important that we encourage green procurement, which has the potential to deliver real benefits in Scotland that will increase over time.

However, we should not automatically assume that we will move enough people's views just by making the case and listing the advantages. The approach has to be sold and re-sold. Cost always creeps in to any spending decisions. It is important to make the environmental, social and business cases time and again, so that people understand the total cost of ownership, the total environmental cost and the total social cost. We must also get across the fact that lowest price rarely means best value. This morning, John Lewis emerged as the top store in a survey reported by the BBC. The store wears as a badge of pride the fact that although it always competes on price, it does not set out to have the lowest price; rather, it tries to bring good produce to the marketplace. This debate shows the importance of giving green procurement a much higher profile and influencing more people.

I have recently been reading a book by Fritjof Capra, who says that there is a difference between machines and human beings: we can change a machine—we can take a spanner to it—but we can only hope to disturb or provoke people. I look to my colleagues and others to help us build the case for disturbing more people on the issue, as Al Gore has done. That means getting people disturbed enough that they want to make a change and they feel that green procurement is sensible, rewarding, business strategic, socially strategic, locally strategic, planet strategic and their own idea. That is key. They must be disturbed enough to want to change and to translate their good intentions into long-term, committed action.

People do not resent change; it is more that they resent change being imposed upon them. If we can sell green procurement in a way that makes people understand all the advantages and come to the conclusion that it is their idea, we could have a genuine bandwagon effect.

Christine May: Does Jim Mather agree that people should be much more disturbed by the Scottish National Party's policy of freezing council tax, with the implications that that would have for procurement?

Jim Mather: I just hope that the member gets a tick in her report card for that and improves her chance of a job at some point. At least two months are left for that opportunity to arise.

Essentially, we are talking about ensuring that we present a positive case for green procurement. We must try to take a genuine partnership approach, in which green suppliers become an indispensable part of the end product that is delivered to customers. I would like suppliers to adopt good business practice to make it easier to do business over time. Green procurement is a golden opportunity for Scotland to retain wealth and business in Scotland. It is also a golden opportunity for many local suppliers to spring up, offer goods and services that compete with bigger firms, and win that business. I am happy, therefore, to support the amendment in Richard Lochhead's name.

09:58

Donald Gorrie (Central Scotland) (LD): All the members who have spoken have made interesting speeches, and constructive ideas have been presented. The Greens deserve credit for securing the debate.

I shall concentrate on a few points. First, we must give far more consideration to the way in which public contracts are organised, from the point of view of their size and conditions. The minister is right to say that we are doing quite a lot in that direction, but we have to do more to ensure that contracts are organised in a way that enables small social enterprises and other small companies—which are not big or complex—to compete. In addition, perhaps working through chambers of commerce, we should support the provision of, for example, bonds and insurance, which are often problems for small companies. We can help small companies and social enterprises in that way.

Robin Harper: Would small architectural firms in particular be helped if the huge insurance indemnity that they are supposed to put up before they even bid for contracts in Scotland was removed?

Donald Gorrie: I have not addressed that issue, but I am sure that it is important and that the minister will consider it.

Secondly, although there has been a lot of improvement in being realistic about best value, it is still seen purely in terms of money, particularly

in councils and health boards. We must develop a system in which the soft aspects of contracts are taken into account, so that if, for example, someone is providing meals on wheels, support for the recipient and the friendly contact is part of the deal. That is as important as the price of the meal. We should have a more enlightened attitude. I know that the audit bodies accept that, but a lot of people who give out contracts do not.

As other members have said, there is great reluctance among small organisations—commercial or social—to get involved in contracts, because they see the whole thing as a jungle. If one is confronted by a jungle, one needs a guide. We should provide more people like Pocahontas or Minnehaha—the redskins—who actually know their way through the jungle, to help the small firms to understand the whole process.

At the moment, we build a lot of awful, seriously defective houses, schools and hospitals. We could work with bodies such as the National House-Building Council and give them more muscle to create good standards and more frequent inspections, so that builders take insulation and microgeneration, for example, more seriously. Likewise, we should build carefully designed schools, hospitals and other buildings that take account of the points that Robin Harper raised. Whatever procurement method is used, it should provide buildings that are good value over a long period and not just the cheapest at the time. We need a bit of farsightedness. That is difficult for politicians, especially when many of them are facing an election in a month or two.

Maureen Macmillan: On a point of order, Presiding Officer. Would Donald Gorrie care to reflect on a term he used that might prove offensive to Native Americans or First Nations people?

The Deputy Presiding Officer (Murray Tosh): That is a political matter, which is for Mr Gorrie's conscience and wisdom to address. It is not for me to rule on.

10:03

Karen Gillon (Clydesdale) (Lab): Like other members, I welcome the opportunity to participate in the debate. I thank the Greens for bringing the issue to the chamber.

For me, procurement begins at an individual level. The choices that we make as individuals in our households about the types of goods and services that we purchase set the tone as a nation. On our shopping choices, do we shop locally on our local high street? Do we use our local farmers market? Do we make those choices or do we allow the supermarkets to maintain their

hold by our refusal to set the example that we should set?

In food terms, for me, locally produced food is tastier and fresher. It is the kind of food that I want to buy. That is the choice that I want to make. There is more that we can do as MSPs, as a Government and as a country to encourage people to shop locally. We need to address prices. There is still more to be done on organic farming and making organic food more affordable to local people. Those of us who can afford it are making those choices.

Alex Johnstone (North East Scotland) (Con):

Does Karen Gillon concede that food issues highlight one of the great hypocrisies at the heart of the matter? Although the Scottish food production industry offers the highest welfare and environmental standards anywhere in the world, as her colleague Richard Baker mentioned earlier, it has to compete in an open marketplace on price, which is a handicap. That hypocrisy must be dealt with and that additional cost must be fed into the system.

Karen Gillon: The member must also reflect on the fact that Scottish farmers compete throughout Europe on price and quality. We have to be careful in whatever we do that we do not prevent them from entering those markets and competing in the same way as others. Price is an issue for local people and for public procurement.

My colleague Christine May spoke about the issues in Fife. There are examples of green procurement throughout Scotland. Patrick Harvie spoke about the East Ayrshire example, which is a good benchmark of what can be done through positive local decision making, sourcing products from local producers and, in turn, building on the local economy.

I welcome the changes that will be made under the Schools (Health Promotion and Nutrition) (Scotland) Bill. That is the right way to go to give our young people the best possible chance in life of accessing locally sourced food and products. People's tastebuds change as a result of the food they eat. If they eat processed food, they taste it as normal; if they eat fresh garden produce, they taste that as normal.

I take a different line to my colleague Christine May on hospitals. We could do more in hospital food procurement. People are at their lowest ebb when they are in hospital. When they are sick, we should provide them with the best and most nutritious food that we can. Call me old-fashioned, but I think that that is sometimes done by a cook in a kitchen downstairs producing food when people are looking for it—it should be fresh, warm, wholesome and locally sourced. We can do more

in that area and we must continue to look at ways to do so.

I will support the amendment in the minister's name. I welcome the steps that have been taken by the Executive, but none of us in the chamber can be complacent. We all need to look to ourselves and our local authorities to find out what we can do collectively to encourage local production and ensure that we have a viable local industry, whether that is in farming, building or any other service, so that we can have local procurement. I encourage the Executive to keep pushing the boundaries as far as it can.

10:07

John Scott (Ayr) (Con): This has been a worthwhile debate on green procurement. Despite the rather awkward title, like Murdo Fraser, I congratulate the Scottish Green Party on raising the subject. Richard Lochhead noted the breakout of consensus.

As Murdo Fraser said, I will speak mainly about food procurement, as it is a subject close to my heart and is one on which I declare an interest—I refer members to my entry in the register of members' interests.

It is appropriate to reflect on the success or otherwise of existing Executive general procurement policies. Conservatives feel that more could and should be done, particularly for small businesses in Scotland, to reduce the red tape in the process and to give them greater ability to tender for contracts. Donald Gorrie noted that too.

The McClelland report noted the well-intentioned Executive progress in public procurement, including the e-procurement Scotland service, but concluded that collaboration within organisations and across sectors had not been completely effective and had to improve. Patrick Harvie, George Lyon, Richard Lochhead and Murdo Fraser all referred to that. Nowhere is that more true than in public food procurement.

Going back to May 2004, Andy Kerr announced the sustainable food and catering procurement guidelines at the "Delivering Change" conference. The guidelines essentially instruct public purchasers, including schools, hospitals and prisons, to buy fresh, seasonal, quality-assured produce when negotiating for catering contracts.

In Shiona Baird's debate on supporting local producers on 4 May 2005, I raised public food procurement and the minister, Lewis Macdonald, responded positively. He highlighted research that the Government appeared to accept would help to break down barriers to local food procurement but, sadly, nothing much has happened since then,

notwithstanding George Lyon's claims and Christine May's peninsula of excellence. I say to the minister that guidance is not delivering as well as it could.

In June 2006, the Environment and Rural Development Committee emphasised in its report on the food supply chain the need for the Executive to provide more encouragement in the area. Robin Harper referred to that. However, progress has been glacial. In autumn 2006, I raised local food procurement through motion S2M-4590 at a members' business debate. The motion was supported by 35 members throughout the chamber, who acknowledged that farmers markets are just the starting point in local food procurement.

Consensus exists in the Parliament to do something, as the minister acknowledged. There is consensus that local food procurement for local people must happen as it does in the East Ayrshire project. I hope that today's debate will bring that a stage nearer, as Richard Baker reflected. A way needs to be found to bring suppliers and purchasers together for the benefit of consumers and producers alike. One way to achieve that lies in proposals that have been lodged by the Scottish Agricultural Organisation Society with the Scottish Executive Environment and Rural Affairs Department.

The minister knows that I had extensive discussions with SEERAD staff on how to enhance food networks to match up businesses of all sizes with the demands of different consumers. In addition, the cross-party group on food produced a paper on local food procurement, particularly through local food co-operatives. That model could be adopted and expanded into a national procurement network that supplies many more customers.

If we are really serious about local food procurement, centralised warehousing and distribution systems will be required in the long term with suitable transport capability. That should progress on a co-operative basis, using the SAOS as an adviser, because it has the established expertise to deliver such a national scheme. Christine May apparently supported that.

Local food procurement is an idea whose time has come—indeed, it came some time ago. We need action now to benefit consumers and producers alike, as well as to reduce our ecological footprint and provide more, healthier and fresher food for the people of Scotland. I ask members to support our amendment.

10:12

Christine Grahame (South of Scotland) (SNP): The SNP welcomes the debate, which has

been, in the main, consensual, apart from a tiny hiccup from Christine May. I commend John Scott on his noted appearances at Ayr farmers market—my sister keeps me in touch with that.

We will not support the Conservative amendment; notwithstanding my colleague Richard Lochhead's comments, we will abstain on it. Although its sentiment is correct, it would delete worthy points from the Green motion—for which we thank Mark Ballard—which we will support. We will reject the Government amendment, because although there are also some good words in it, we agree with Patrick Harvie that the Executive's good-practice guidance is not being taken up throughout Scotland, notwithstanding the shining example of the kingdom of Fife.

Patrick Harvie and others mentioned the Schools (Health Promotion and Nutrition) (Scotland) Bill. Although we on the Communities Committee have received evidence from the Soil Association about good practice in East Ayrshire, issues about bulk purchasing, which have been addressed by others in the chamber, have been raised by the Scottish Consumer Council. Bulk purchasing flies in the face of purchasing locally. I will speak about value for money shortly, because I want to examine the dividends from local purchases that other members have mentioned, which include employment, quality, freshness and the carbon footprint.

Sticking with food for the moment, we must make children aware of where their food comes from. It does not simply come from the freezer and the microwave; it was something else before it got to the freezer, and we can do things other than microwave it. Some children do not even know where eggs come from. We have to educate children so that they know what they are eating. That is important for the good of our society.

From food to fabric. Patrick Harvie raised issues about buildings, which were also touched on by Robin Harper. I would like builders to access local sympathetic materials. I am weary of the ugly march of the ubiquitous Legoland houses that are a blight on the landscape. Let us see builders purchasing locally and building with materials that are sympathetic to the landscape, as they used to.

That was a short digression. I return to the mantra of value for money. I would like the minister to define value, which was also mentioned by Donald Gorrie. It is not just about money. For example, Orkney Islands Council tries to purchase as much as possible locally in the interests of the sustainability of the Orkney islands community. To the best of my knowledge, the national health service in Wales also endeavours to purchase its food locally. I fear that, in Scotland, the Government considers the cost of everything but not the value. Local authorities and NHS

boards are paranoid about being prosecuted under EU regulations. I agree that that mindset must be challenged. I am not talking about working our way around the rules; I am talking about using the rules to our advantage.

In that regard, I will give an example of bad practice, featuring Scottish Borders Council and NHS Borders, which cancelled a long-standing contract for stationery and overprinting and gave the contract to a company in France. Apparently, that represented value for money, but what was the cost? It was more than 30 local jobs—30 people who are now out of work. That is not joined-up thinking, nor is it value for money.

10:16

George Lyon: This has been a good debate, with reasonable consensus around the chamber about the need to go further in green procurement. Patrick Harvie highlighted the key issue, which is the need to use the spending power of the public sector to drive forward that agenda. We must be seen to lead on this agenda.

Richard Lochhead highlighted another key issue when he said that increased demand from the public sector for sustainable products will help to lower their cost. That is key in terms of the cost of solar panels, small renewable energy generators and so on. If we can increase the demand for all those products, which currently add a lot to the basic cost of building a house, their cost will come down rapidly, which will make them more affordable and ensure that they deliver best value for money.

Richard Lochhead: Will the member give way?

George Lyon: I have not got a lot of time, so if Richard Lochhead does not mind, I will address other points that were made in the debate.

Murdo Fraser and John Scott highlighted the problems that small and medium-sized enterprises have in bidding for contracts—many enterprises opt not to bid because of the complexity and difficulty of the procedure. We have acknowledged that that is a problem and that opportunities to consolidate and co-ordinate the process exist, which is why we are currently working to set up a procurement portal that should open up opportunities for small and medium-sized enterprises. We are working with the Confederation of British Industry Scotland, the Scottish Chambers of Commerce and the Federation of Small Businesses on standardising the documentation that is used in the tendering process to try to ensure that their members get access to bidding on contracts.

We all want to ensure that we use taxpayers' money wisely to deliver high-quality and cost-

effective public services. In other words, we want procurement to deliver value for money. It is important to accept, however, that that is not about what costs least; it is about delivering good value as sustainably as possible. One of the best ways in which to achieve that is by ensuring that policy and guidance reflect best practice, which should be shared among all those who need to interpret and apply it. To that end, the Executive's website is a valuable resource: advice there clearly states how and when environmental and social criteria can be included.

The motion suggests that our guidance should be mandatory and that we should instruct local authorities and public bodies accordingly. As our guidance explains, environmental criteria may be taken into account to the extent that they are relevant to the particular contract. The relevance of the criteria vary from contract to contract, which is why I remain to be convinced that a mandatory approach would be appropriate.

Karen Gillon said that we cannot be complacent. We are not, which is why the Executive is committed to producing a Scottish sustainable procurement action plan later in the year. That plan will build on our achievements and take into account the outcomes of the United Kingdom sustainable procurement task force and the recommendations in John McClelland's report. Continued work with the bodies that I mentioned earlier will help us to make further progress towards mainstreaming sustainable procurement throughout the public sector.

I believe that there are benefits to be gained from the Executive's approach—we have already delivered some successful outcomes. For example, 100 per cent of the Executive's electricity comes from renewable resources, 70 per cent of all of the stationery products that were used by the Executive in 2006 were environmentally preferred options and all our general office copier paper is manufactured from 100 per cent recycled materials. Furthermore, all Scottish school public-private partnership projects have now to follow new policy guidelines that have been issued by the Minister for Environment and Rural Development, which state that public sector building should contain a minimum of 10 per cent recycle in its construction.

The Executive will continue to lead from the front in securing green procurement across the public sector. Our track record demonstrates the progress that we have made and the lead that we have given. Therefore, I ask members to support the amendment in our name.

10:21

Eleanor Scott (Highlands and Islands) (Green): This good debate has shown that a

consensual debate can still be interesting and enjoyable. It has allowed members to air their own procurement interests; for example, it has allowed Patrick Harvie to mention IT, Robin Harper to mention school kitchens and John Scott to mention food procurement, in which he has an on-going interest. I will, therefore, spend a minute ranting about paper, which George Lyon touched on in his closing speech.

Scotland consumes about 1.5 million tonnes of paper a year and far too much of it—about half—is made from trees, all of which are grown in other people's forests. Forest degradation is a major contributor to climate change on the planet, so we have a global responsibility to reduce our footprint on other country's forests. The best way to do that is to use recycled rather than virgin paper. Only a few sorts of paper need to be made from tree fibres and those that are should be recyclable. Each fibre should have nine lives, like a cat—legal paper, then office paper, then the other side of office paper, then recycled office paper, then the other side again, then magazine paper, then newspaper paper, then newspaper paper again, then loo roll. All toilet roll and tissues should be made of 100 per cent recycled fibres. There is no excuse for flushing virgin tree fibres down the loo.

Recycling paper uses much less energy than producing paper from virgin fibre—between a sixth and a third less, depending on the type of paper. It requires less than half as much water, produces far fewer greenhouse gases, emits a tiny fraction of the toxic chemicals to air and water and is, generally, much less damaging to the environment.

Christine May: Is the member familiar with the project at Smith Anderson Packaging in my constituency in Fife, in which juice cartons are recycled to produce suspension folders that are used for filing in places such as the Scottish Executive?

Eleanor Scott: That is another example from the "peninsula"—or, possibly, kingdom—"of excellence", which Christine May spoke about earlier.

We have made a splendid effort in increasing the amount of paper that we recover instead of sending to landfill. That is excellent, except that it is not recycled here but is increasingly sold to China for reprocessing—five times as much now as was the case four years ago—because we have fewer than 2,000 reprocessing facilities in Scotland. That makes no sense. We must encourage reprocessing in Scotland, and the best way to do that is to support the market for recycled products. Public procurement has a big part to play in that. Just think how much paper the public sector uses. It is not enough to chuck our paper

into the recycling bin; we must close the loop by buying recycled paper.

George Lyon praised the Executive's record on green procurement. Actually, that record is not too bad—although it could be better—but that is not really what we are getting at. Our concern is what happens in other public bodies. In the debate, we are not arguing with Executive policy; we are agreeing with it. We are asking the Executive to put its heart and soul—and, maybe, a small amount of extra resources—into making its vision happen. The green aspects in the procurement policies in the Executive's website and the best-value toolkit are aspirational in tone but weak in detail. In contrast, the EU's guidelines on sustainable procurement give examples of writing green issues into contracts.

George Lyon: I accept that we can strongly drive the agenda within public agencies, but we must acknowledge that local authorities are self-standing bodies. We need political buy-in at that level to ensure that the agenda can be delivered. The McClelland report and the discussions that McClelland is having with local authorities are important in trying to get agreement on how we implement and mainstream green procurement throughout the Executive and public agencies.

Eleanor Scott: I agree, but local authorities look to the Executive for political leadership on the matter.

Sustainable procurement is covered in chapter 7 of the best-value guidance, so we have read six chapters before we get to it. It states:

"This means ... That 'quality of life' indicators are identified to measure performance in contributing to the achievement of sustainable development and reported to the public."

The problem is that that is very aspirational. It is not practical and not specific.

Mr Stone: Does Eleanor Scott agree with my comment about corporate social responsibility? Does she agree that offering rewards to businesses is one way to encourage what she is talking about?

Eleanor Scott: I do not disagree with that.

George Lyon talked about a suite of guidance, but it is not a matching three-piece suite. It is more like a lot of bits and pieces that have been collected over the years. Although I am in favour of recycling, it is now time to replace those things, so I welcome the idea of a procurement portal.

At present, a procurement officer who wants to improve his or her green buying practices needs extraordinary personal dedication and initiative. We heard about some examples, but the fact is that they are just examples. Everybody looks at the East Ayrshire food example with awe and

wonder as well as with admiration, but that approach should be the norm. We are asking not for something new but simply for the best to be rolled out everywhere. We need a culture shift towards green thinking in procurement—in our view that can best be achieved through mandatory social and environmental goals and a proactive Government strategy of support.

George Lyon said that we must consider the relevance of environmental criteria, but it is hard to think of a case in which environmental criteria would not be relevant. I would be interested to hear an example of a case in which environmental and sustainability criteria were not relevant.

We are not asking for anything unreasonable; we ask only that the Executive's stated goal of working towards sustainable development be helped, not hindered, by public procurement. Ultimately, if we are not spending public money for the wider public good, we are missing a trick. If we are serious about getting the best value for money in the long term, if we are serious about bringing down the cost of sustainable technologies, if we are serious about tackling climate change and improving energy efficiency and—crucially—if we are serious about putting our money where our mouth is, green procurement is a must.

Scottish ministers are great at talking the talk on sustainability, but far too often the reality of public spending fails to live up to their lofty rhetoric. Let us ensure that the money that is spent in our name is part of the solution and not part of the problem.

Scottish Water

The Deputy Presiding Officer (Murray Tosh):

The next item of business is a debate on motion S2M-5510, in the name of Mark Ruskell, on Scottish Water.

10:28

Mr Mark Ruskell (Mid Scotland and Fife)

(Green): This debate is an opportunity for all of us in the chamber—apart from the Tories—to restate our commitment to public ownership and control of Scottish Water and to welcome its improved performance in recent years. The number of complaints has dropped by a fifth in the past two years, whereas the number of complaints south of the border has increased by a tenth this year alone. That speaks volumes.

Dave Petrie (Highlands and Islands) (Con):

Does the member agree with the water industry commissioner's report that, for every million gallons of expensively treated water that is produced, half a million gallons leak from our pipes? Our sewers are flooding with non-statutory surface water. Does the member accept that, under the charging system, the required improvements are not achievable within an affordable system?

Mr Ruskell: I argue that the regulatory system is at fault. We can trade figures throughout the debate, but South West Water's charges for the coming year will be 40 per cent higher than those of Scottish Water's charges. The Tories' amendment mentions the Welsh Water model, but its annual charges are 15 per cent higher than those of Scottish Water.

There is considerable room for improvement, and this morning's debate is a chance to expose where the weaknesses lie in regulation of the public utility. Those weaknesses mean that the vultures are circling, waiting for the pressure for further privatisation to mount before they move in. We must be mindful of the pressures as we enter a new programme of investment that will place new challenges on the industry.

The debate also gives us a chance to discuss the Welsh model of mutualisation, which looks and smells like public ownership but will lead to an inevitable drift towards full privatisation. Why would the Tories push such a Trojan horse into the debate, other than to tempt waverers such as Christine May?

The Greens reluctantly supported the Water Services etc (Scotland) Bill. We understood the context whereby the neo-liberal pressure of the World Trade Organization led to pressure on the European Union, which eventually led to a United

Kingdom competition act. That left the Scottish Executive with no option. A limited form of privatisation of the handling of business customers was the least bad option and was better than the prospect of multinational corporations carving up the Scottish water industry in the courts to suit themselves.

However, we voiced concerns then—we voice them again now—about the remit of the water industry regulator and the methods that are used to regulate our industry economically. A public utility is being regulated as if it were a private corporation. The primary functions of Scottish Water must be sustainable development in its three strands: the delivery of an enhanced environment, a fair price to citizens for a basic need and the delivery of economic health to the country as a whole.

Although Scottish Water has a duty to deliver sustainable development, the Water Industry Commission for Scotland does not view the world through the same lens. There is a mismatch. Ministers are clear about objectives and Scottish Water plans what it has to do to meet them. The Scottish Environment Protection Agency and the drinking water quality regulator for Scotland are focused on the objectives too, but the WIC makes the final determination on the grounds of market economics and efficiency. Its primary focus is the delivery of the lowest cost. The arbitration of any determination that the WIC makes goes not to ministers but to the Competition Commission—a body whose world view is also narrowly focused on issues of market efficiency rather than on the delivery of long-term public objectives.

In recent months, a new role emerged for the WIC. As a champion of privatisation, its chair, Sir Ian Byatt, talked on 5 June last year about leakage and the "dilemma" that regulators face. He said:

"should they act as agents of ministers, or should they have a role in protecting customers against policies that are cost ineffective?"

There is a thought—let us protect the voters from the crazy policies of the Government that the voters elected.

Alex Johnstone (North East Scotland) (Con): Hear, hear.

Mr Ruskell: A blow for democracy over there.

The view was also reported that Scottish Water should be freed from state ownership, but that was apparently a misrepresentation of the WIC's view. Perhaps that is why it felt it necessary to get its message across by employing a team of lobbyists, presumably to battle the lobbyists that are employed on the other side by Scottish Water. I know that some competition has been introduced to the water industry, but I do not think that that is the kind of competition that ministers were thinking

of. The two bodies certainly do not operate within the same framework to deliver long-term public objectives.

Let us examine a particular quality issue that was raised by the chair of the WIC. Because of leakage, consumers pay for twice as much water as they receive. Leakage creates a cost not only to consumers but to the environment, but we have a regulatory mechanism that uses the regulatory capital value method, the result of which is that it is more profitable to pump water through the system than it is to repair the system as a revenue cost.

It is Scotland's water, not the WIC's. There are models of publicly accountable water delivery, such as Stockholm Vatten, that put public sustainability objectives first. We should benchmark Scottish Water against such models rather than against a private model of water delivery from England that has led to the scandal of billions of pounds being siphoned off for shareholders' profits.

The role of the WIC should be brought into line with those of ministers and Scottish Water. Economic regulation is vital, but it should not sit as the overarching framework for public service delivery. That framework should be sustainable development, which will deal with our needs and those of our children and their children to come, rather than the short-termism of the market. That is the right vision for our public services.

I move,

That the Parliament notes growing pressure for Scottish Water to be privatised; further notes the substantial improvements that have been made in Scottish Water's performance, all of this having been achieved while keeping Scottish Water in the public sector; notes the Water Industry Commission's lack of a wider social and environmental remit and its use of a regulatory model more suited to a private utility than to a public one; considers that improving the service, upgrading the water and sewerage system, reducing leakages and ensuring effective regulation should not centre on short-term efficiency measures but on the quality and safe delivery of services in the long term, and affirms its commitment to keeping Scottish Water under public ownership and control.

10:34

The Deputy Minister for Environment and Rural Development (Sarah Boyack): I very much welcome the debate. We have systems of managing our water networks in Scotland that are different from those in the rest of the United Kingdom. That is a result of our policies and the ability to deliver them through this Scottish Parliament.

Mark Ruskell's motion notes the substantial improvements that Scottish Water, operating in the public sector, has delivered. I go further in my

amendment by welcoming those improvements. Scottish Executive policies have transformed our water industry into a more effective and efficient organisation that delivers improved performance for less money.

Mark Ballard (Lothians) (Green): Will the minister take an intervention.

Sarah Boyack: No thanks. I want to get started.

We have a unique model: it is a third way that provides a public sector company that is directed by ministerial policy, that has an overarching requirement for sustainable development and which is regulated and benchmarked against the private sector. Scottish Water reinvests in water the efficiency savings that it makes.

It has been a challenging time for Scottish Water. We pulled together three separate water authorities into a single operation. We transformed the services that it has delivered to 2.2 million households and 136,000 business customers through improved operational practices and a £1.8 billion investment programme, which was supported by £600 million of borrowing from the Executive.

Other countries have been interested in the model in Scotland. South Africa was very interested and sent representatives to Parliament to meet one of my predecessors, Lewis Macdonald, and to see how the public company and regulation system worked together. Northern Ireland was also very interested in our approach. The model is unique to us in Scotland, but it has worked.

Dave Petrie: Does the minister accept that in all Scottish Water's new works it is in partnership with private companies such as Miller Group, Babbie Group and so on and that, therefore, Scottish Water is already partly privatised?

Sarah Boyack: No. Scottish Water is using private companies to deliver our investment programme, which is set by Scottish ministers. It is using the best system of delivery. It is not a private system. Scottish Water is using companies that are directed by the public sector. We see that throughout Scottish investment, which is a good thing.

Let us consider the unprecedented levels of cost reduction that the partnership has been able to deliver in Scotland. The Water Industry Commission has calculated that savings of £946 million in operational and capital costs have been made. Those are unprecedented levels of efficiency, even for the water industry in the public sector. The savings equate to £211 in the average household bill in Scotland over the four years. Those are important savings for people who need

to know that Scottish Water is spending our money properly.

Jim Mather (Highlands and Islands) (SNP): Will the minister take an intervention?

Sarah Boyack: No, thank you. I want to get on.

That means that Scottish Water is delivering more for less. Our constituents are benefiting from lower charges, Scotland is benefiting from improvement in the environment and drinking water quality and, crucially, our economy is benefiting from a better service being delivered more efficiently. Those achievements are good news and we should pause to congratulate Scottish Water on its successes, which have been delivered by a focused and determined management and dedicated staff. They have shown that our model for the water industry, operating in the public sector, can match the performance of the very best of the private sector.

Mark Ruskell's motion displays a fundamental misunderstanding. He is wrong to assume that such improvements can be delivered without the system of robust economic regulation that this Administration put in place, which was approved by Parliament, with the support of Mr Ruskell's party. In the stage 3 debate on the Water Services etc (Scotland) Bill, Mr Ruskell said:

"The delivery of water services in Scotland is about striking a crucial balance between the economy, the environment and social justice. Those three drivers need to be at the heart of the development of our water services. I am content that the bill offers a structure to enable that balance to be struck and controlled by the Parliament."—*[Official Report, 9 February 2005; c 14378.]*

That is what we have—the correct system of regulation for Scottish Water. It achieves the maximum affordable improvement in public health and standards of environmental protection by improving our drinking water quality and the quality of discharges to the water environment. It supports housing and economic growth throughout Scotland through investment in new strategic water and sewerage capacity. It delivers those outcomes with a capital programme that means that we will get delivery over the next few years and that water charges will remain affordable. That is what customers want, that is what the people of Scotland want and that is what Parliament voted for.

I move amendment S2M-5510.2, to leave out from first "notes" to end and insert:

"welcomes the substantial improvements that have been made in Scottish Water's performance, all of this having been achieved while keeping Scottish Water in the public sector; recognises that the objectives set by ministers for 2006-14, which properly recognise the social and environmental priorities of the Scottish Executive, will not only deliver further improvements in drinking water quality, environmental protection, and customer service but also

relieve development constraints, upgrade the water and sewerage system and reduce leakages; recognises that the role of the Water Industry Commission for Scotland is to assess the lowest reasonable overall costs of delivering the objectives that ministers have specified, taking account of appropriate external benchmarks, and affirms that Scottish Water operating in the current regulatory framework will go on to deliver further improvements in this vital public service."

10:39

Murdo Fraser (Mid Scotland and Fife) (Con): We started this morning with a consensual debate on procurement from the Greens. I am disappointed that this debate will not produce the same cross-party consensus, but I am pleased that the Greens have acknowledged in their motion the growing pressure for privatisation of the water industry—a cause that we have championed for many years. I am delighted that it has been acknowledged that the campaign on water that we have been leading is attracting support from other quarters. People such as Sir Ian Byatt, Sam Galbraith, the former Labour minister, and Jo Armstrong, the former adviser to the First Minister, are all queuing up to support our calls for the privatisation of Scottish Water. I am delighted that the Scottish Green Party has acknowledged the fact that we are winning friends.

Mark Ruskell said that Scottish Water had made some improvements, which I acknowledge. Six years after its creation, we have seen one year of improvements in Scottish Water. I pay tribute to the chairman, the board and the staff of Scottish Water for making that possible, but Scottish Water is still not doing as well as it should be doing and for the past five years it has woefully let down too many people in Scotland.

Businesses have been overcharged. In February 2005, the Executive admitted that Scottish Water had overcharged businesses in Scotland by £44 million a year. In comparison with many companies down south, businesses in Scotland are still paying far too much for their water and are being put at a competitive disadvantage.

Stewart Stevenson (Banff and Buchan) (SNP): Is the member aware that Banff and Buchan College's Peterhead centre, which is in my constituency, has just received a bill for £39,000, which represents use of 20,000 tonnes of water? That is, of course, down to the private sector company that has been hired by Scottish Water, which read the meters so inefficiently and incorrectly. Is one of the advantages of having private sector companies engage with the public that we can see that they are capable of making errors at least as great as any in the public sector?

Murdo Fraser: I am sure that the private sector will make errors in many cases.

I was going to talk about the Welsh Water model, which of course has support from Mr Stevenson's colleagues. If I remember correctly, his colleague Mr Gibson, who is sitting beside him, lodged a motion in 2005 praising the performance of Welsh Water, which was and is the top-performing private water and sewerage company in England and Wales. Perhaps we need a bit of consistency from the Scottish National Party.

The problem with Scottish Water is that there are still inefficiencies in the system. Mark Ruskell did not mention development constraints, perhaps because the Greens do not really care about development. Such constraints continue to be a major problem and hold up development of the Scottish economy. We need to get more capital investment from Scottish Water.

The Office of Water Services—Ofwat—report from last March ranked Scottish Water behind every one of the 22 private water companies south of the border. Yes, its performance has improved in the past year, but it has not improved enough and it needs to do more. It is a pity that the conclusion that the Greens drew in their motion, that Scottish Water needs to remain in public ownership, is a complete non-sequitur in the situation that we face.

As members know, our proposal is to follow the Welsh Water model. It is a not-for-dividend model, where profits are reinvested. Need I remind members that Welsh Water is the best performing water company in the United Kingdom? It is efficient, it delivers high water quality and it delivers high levels of investment, because it can borrow money on the money markets. We do not mutualise Scottish Water purely because of the blinkered ideology of the other parties in this chamber. It is time to put the needs of the Scottish economy and the needs of water customers before dogma and to move ahead to mutualise Scottish Water.

I move S2M-5510.1, to leave out from "further notes" to end and insert:

"believes that Scottish Water is failing its customers because it is inefficient, misallocates resources, overcharges customers, particularly businesses which were overcharged by £44 million every year, and holds back much-needed development; further believes that Scottish Water must be removed from state control and transferred into a 'not-for-dividend' organisation in line with Welsh Water, and considers that this would enable Scottish customers to benefit from the lower costs and higher levels of service enjoyed by their counterparts south of the Border."

10:44

Rob Gibson (Highlands and Islands) (SNP): If we are to believe Murdo Fraser, privatisation is built into the model that has been delivered by the

Scottish Executive. He also wants us to believe that the mutual model that he supports is a private sector model, but, in fact, mutual models such as not-for-profit trusts are not private sector models. Indeed, in the case of United Utilities, it is all the subcontractors that are doing the work and, yes, they are the ones that are making the profits. We need to mutualise the subcontractors as much as the company itself.

The SNP has a fundamental problem with the model and the way in which its accountancy system has been set up. The Finance Committee's minority report of a couple of years ago, which Jim Mather led, confirmed that accountancy method and identified

"a pattern of obfuscation and deceit on the part of the Executive and the WIC, attempting to confuse and make acceptable the unacceptable suggestion that the strategy was justified because it complied with resource accounting and budgeting; because it was in line with free cash ratios elsewhere and regulatory current value; or because the Treasury said that it was okay."—[*Official Report*, 2 March 2006; c 23714.]

How can a public water system, in any form, be compared with a private water system? If a water system is truly public, it cannot be compared in that way.

Let us consider the question of borrowing. Why should borrowing for a public company have to follow the private model? Publicly owned bodies such as Scottish Water might have different sources available to them, which are not available to private firms. It is up to the Government to ensure that that is possible. Given the fact that Scottish Water is passing back £162 million of borrowing requirement that it had last year for the Government to recycle into other projects, we must question the accountancy method that is being used.

On the question of improvements in performance, as I said, we must compare like with like. There is no guarantee that the model that the SNP prefers is the one that Labour wants to maintain. Labour—which may be in a minority Government, supported by the Tories, at some time in the distant future—could easily find Scottish Water to be the sort of body that it could sell off to make some quick cash to invest in a project. That is the danger that is built in, and we must change it.

Sarah Boyack: Would Rob Gibson like to explain specifically what model the SNP supports and how it would deliver that?

Rob Gibson: Certainly.

The Deputy Presiding Officer: You have one minute.

Rob Gibson: We need a Government that is prepared to direct the process to the WIC and

Scottish Water and which sets priorities that can be achieved by the accountancy model that we want to have in place. Mr Mather will explain in detail how we should achieve that. The economists know how to do that, but the present Government does not employ them.

The WIC has been trying to achieve a lot of short-term hits and has not been investing in the long term. Why should existing customers pay 86p or more in the pound for every pound that is invested in the water infrastructure? That is a crazy model of accountancy that provides customers, whether businesses or residents, with water that is far too expensive.

I turn to a classic example of why the system has not worked, concerning leakages and smells.

The Deputy Presiding Officer: Your time is up.

Rob Gibson: There is a large sewage plant at Seafield that affects 30,000 people because of the unbearable smells that come from it in the summer.

The Deputy Presiding Officer: Mr Gibson, you must wind up.

Rob Gibson: I am winding up.

The Green party motion suggests that it is possible to have the current model and, with direction, ensure that it works.

The Deputy Presiding Officer: I am sorry, Mr Gibson, but you must stop now. You are way over time.

10:49

Mr Andrew Arbuckle (Mid Scotland and Fife) (LD): On the way to Parliament today, I was, for a short time, critical of Scottish Water. There was a hold-up in the traffic, and it was only when I read the explanation as I approached the traffic lights that I discovered that Scottish Water was laying yet another new water main. If it is not laying new water mains, it is installing replacement sewers; if it is not making one improvement, it is making another. The reality is that it is far more usual to encounter roadworks caused by Scottish Water than it was back in the days when the local authorities were responsible for that public utility.

Last week, David Davidson—who, I am sorry to see, is not here today—described me, in a mean and thin comment, as not knowing whether I wanted to be an MSP or a councillor, without realising that there might be benefits to seeing government at two levels. In preparing for today's debate, I came across the former Fife Regional Council's capital plan for water and sewerage from some 20 years ago. Iain Smith—a colleague at that time—said that I was a sad person to keep such documents. As a good Liberal Democrat, he

had recycled his copies of them, but I have kept mine. Those were the days when the Tories capped capital expenditure by the council and, after we had fulfilled our statutory obligations, there was little left in the local authority pot for upgrading the water supply network or carrying out work on sewage treatment plants.

Mr Ruskell: Will the member give way?

Mr Arbuckle: No. I have only four minutes; otherwise, I would.

Twenty years ago, the total proposed capital spend on water services and sewage works in Fife was some £5 million, which did not go far towards replacing much of the pipework that had been laid by our Victorian predecessors. Based on using the usual multiplier of 10 to get a Scottish figure for that time, the investment in water and sewerage services for the whole of Scotland could only have been about £50 million annually. Even allowing for inflation over the following two decades, that is a tiny, insignificant sum compared with the capital programme of Scottish Water today—£1,800 million in the first four years of Scottish Water's operation and another £2.5 billion in the current four-year period. One of the brakes against more investment is the ability of our civil engineering industry to deliver more works effectively and, in financial terms, efficiently.

Stewart Stevenson: Will the member take a 10-word intervention?

Mr Arbuckle: I do not believe that Stewart Stevenson has ever made a 10-word intervention, so I will not take it.

Mr Ruskell: Will the member take a five-word intervention?

Mr Arbuckle: No.

A comparison shows just how much the water industry has been transformed in the past two decades. In 1987, some £16,000 was allocated for water treatment in Fife. I ask members to compare that figure with the £220 million that is allocated in this year's Scottish Water budget for improving water quality.

Mr Ruskell: Will the member take a four-word intervention?

Mr Arbuckle: Yes.

Mr Ruskell: Mutualisation: yes or no?

Mr Arbuckle: I think that Mark Ruskell was in the chamber when Ross Finnie gave a definitive figure for the implementation of that. However, I agree with Mark Ruskell that the vast majority of Scots do not want to see water services being privatised. They do not want to see them as a profit-making vehicle for a company whose shareholders' preferences come before its

ensuring good water supplies and effective treatment.

I do not deny that there is a great deal to do. Like most members, I handle complaints and requests from the public who have concerns about the delivery of water. Nevertheless, it must be remembered that we have raised the bar in terms of the quality of the water that is both going in and going out. We politicians should quietly consider whether, following two major reorganisations in the Scottish water industry in recent years, we should allow a period of consolidation. We should not spark uncertainty in the organisation and its staff over the possibility of yet another major shift, especially when Scottish Water is in the middle of delivering a major investment programme. We should allow Scottish Water to settle down and deliver its ambitious forward works.

10:53

Maureen Macmillan (Highlands and Islands) (Lab): There is no pressure to privatise Scottish Water coming from this side of the chamber. Scottish Water is a publicly owned company that is subject to tight regulation to ensure economic rigour, environmental rigour and drinking water quality. Its social remit is determined by Executive ministers under the scrutiny of the Parliament. That is why, for example, funding is being provided by Communities Scotland to support water and sewerage infrastructure for affordable housing in rural areas and why there is protection for those who are on low incomes. The economic regulator ensures that those social goods are delivered efficiently; he cannot change the policy.

Scottish Water was set up as a publicly owned company so that private water companies could not cherry pick the easy-to-deliver or affluent areas of Scotland and abandon remote rural communities, many of which exist in the area that I represent. That was a real fear at the time when the former Transport and the Environment Committee, in the first session of Parliament, was debating how the whole of Scotland should be served. We considered all the possible models for the new Scottish Water, which was formed from three existing water companies, and decided that the public sector model would deliver best.

Alex Johnstone: Why has the argument about cherry picking and services for remote rural areas not been an issue in Wales?

Maureen Macmillan: The situation in Scotland is different from that in Wales. Wales might have some rural areas, but Scotland has some very remote rural areas.

Scottish Water's objectives are challenging, whether they are about improving the environmental status of rivers and coastal waters;

tackling odour from sewage farms; tackling development constraints; or dealing with leakage from the existing infrastructure. Correspondence on most of those matters has filled our postbags from time to time and we have all been robust with Scottish Water when we have perceived its failings. Concern about leakages, however, has not featured in my postbag, yet loss of water that has been treated to the highest possible standard is a waste of resources. Climate change will mean that we have to address that as a matter of some urgency.

We are not taking into account properly the need to conserve water. Even here in Scotland, demand outstrips our ability to supply water because, for example, of access difficulties to more remotely located potential reservoirs or because the local water is heavily peated and difficult to bring up to the required drinking water standard. Members might have noted the proposal to use Loch Ness as a reservoir for the Inverness area. Where will we find easy access to more water in other areas? It is crucial that we minimise leakage and take water conservation seriously.

The water framework directive requires Scottish Water to deal with leakage, but what can consumers do to conserve water? First, we have to educate ourselves. The east of Scotland is becoming drier, so we need to act now to prevent future long-term water shortages such as that which happened in Dundee in 2004. We must stop the ever-increasing rise in household water consumption and the consumption of high-quality and expensively treated drinking water for washing dishes and clothes, flushing toilets, watering gardens and so on. Producing such high-quality water takes a lot of energy, and we need to be more considerate about how we use it.

Households waste most water by leaving on garden sprinklers. People should get a water butt; large house and garden stores stock them and more and more people are buying them. Some water butts can be plumbed into the toilet or washing machine. Water tanks can be set into the ground to collect run-off from a driveway. We must consider how future homes and businesses can be water efficient as well as energy efficient.

According to a survey by LogicaCMG for Waterwise, 60 per cent of Scots actively look for ways to reduce water consumption and 80 per cent believe that a Government campaign would help them to be more water aware. Perhaps the minister will consider launching a campaign.

10:57

Jim Mather (Highlands and Islands) (SNP): As we have heard, the United Kingdom water industry is privatised in England, mutually owned in Wales

and publicly owned in Scotland. As a result, there is no Westminster funding for Scottish Water, and the Executive's solution has been to try to make Scottish Water largely self-funding. The problem is that the situation has arisen at the same time as a combination of 100 years of neglect of the water infrastructure coming home to roost and European Union directives landing on us.

In the process, the Executive has created a cash cow out of Scottish Water. It has deviated from the sound financial principle of net new capital investment being funded from borrowing. If that principle is breached, we are asking today's customers to subsidise tomorrow's customers; that is why John Swinburne supported the minority report in the Finance Committee. It also risks damaging high prices that erode competitiveness. As I said, the Executive has created a cash cow.

In April 2003, I took a phone call from a silversmith on Mull, who told me that his water bill of £70 was about to rise to £400. That was when we triggered the Finance Committee to act and called on Jim and Margaret Cuthbert—Jim is the former chief statistician at the Scottish Office and Margaret is a senior economist—to get involved with the committee on the project. They brought to light the errors, overcharging and planned elimination of Scottish Water debt, and they had an effect. While the Finance Committee produced a majority whitewash report, the WIC had his wings clipped by having a water commission imposed upon him. The precipitate debt reduction was slowed; it was going to be £17 million by 2016, but that was flattened out. Charges were also flattened. The privatisation risk receded, or so we thought.

In the meantime, there has been a mammoth increase in charges, mainly for business customers. Lots of money was released back to the Executive to be released into other projects. There was the absolute embarrassment of the three years' financial accounts to 31 March 2005, which showed that 86.6p of every pound of capital expenditure was paid for by current water charge payers. On top of that, we had false economies and development bottlenecks all across Scotland.

The Cuthberts are now going further and saying that, in the period 2002-2010, the overcharge will be something like £940 million. That has been denied by assertion by the Executive, by a majority of the Finance Committee and by the adviser to the Finance Committee; it has never been denied by proof.

Some responses to freedom of information requests now show co-ordination between the committee's adviser and civil servants to argue away the Cuthberts' points. One of the FOI responses from a senior civil servant says of paragraph 6 of Arthur Midwinter's report:

"The final sentence must make clear that the £32bn relates to the replacement cost not the current worth of the assets. I doubt we would find a buyer for SW if the price tag was £32bn!"

Scottish Water could be a key element in the competitiveness of all Scottish business forever: an unchallengeable, valuable, permanent, legitimate state aid. But what have we had? The limited borrowing continues; Professor Alexander has resigned; there have been more false economies; communities feel that they are being ignored and that development bottlenecks have been imposed on them; and the Scottish Executive inquiry reporters unit has been brought into disrepute. The situation looks right for privatisation. Charges are high; assets are being built up and improved; there have been massive tax losses; debt has been held down; and the system is designed to maximise future profits. The crisis of confidence in Scottish Water and risk are being talked up.

We should look at the results of the English water authorities. In the first nine years, 201 per cent of the face value of the shares was paid back in dividends. That is not going to happen here; it cannot happen here.

11:02

Frances Curran (West of Scotland) (SSP): I welcome the debate that the Greens have brought on water. The key word is "vigilance". The Scottish Socialist Party voted against the Water Services etc (Scotland) Act 2005 because it was a stepping stone to privatisation. It introduced competition into Scottish Water and forced it to set up a private arm—Scottish Water Retail—which is to act entirely separately from Scottish Water as an essentially private company within a public corporation.

The elephant in the room is that the Executive is in favour of privatisation; that is the real position. I do not accept Maureen Macmillan's point—

Mark Ballard: On that point, does it strike the member as significant that while some of the words in the Green party's motion are incorporated into the Executive's amendment, the commitment to keeping Scottish Water in public ownership and control is missing?

Frances Curran: I agree completely with Mark Ballard. It is also missing from Jack McConnell's comments on the forthcoming Labour Party manifesto.

Maureen Macmillan: The member has seen the manifesto, has she?

Frances Curran: I have seen Jack McConnell's comments; he was asked to rule out privatisation.

The ideology is that the Labour Party believes in the market. I remember meeting the head of Scottish Water just after I was elected and asking him to justify BP Grangemouth, which uses more water than anyone else in Scotland, getting its water for almost half the price per unit that I or any member here pays. He tried to defend the idea by saying that BP Grangemouth is a big customer that brings in many millions of pounds per year, so Scottish Water gives it a discount. He said that BP Grangemouth could go elsewhere for its water, and I asked where it would go for that amount of water in Scotland. That is a political decision. If a company is not given the opportunity to go anywhere else, it has to buy from Scottish Water. There is a political ideology at the root of the situation.

Labour, in particular, agrees with that. Given that it appointed the members of the WIC—it is no secret that those members are in favour of privatisation and believe that it would be much more effective—Labour has appointed privateers to be advisers to the minister on Scottish Water. Should that not tell the Parliament something about the direction in which we are going?

Current customers are being forced to pay for the investment programme to improve the infrastructure so that Scottish Water can be privatised and floated on the stock market. Future profits are on the agenda.

Water is a scarcity in the world; there is a world shortage and that is driving up prices. Scotland has an abundance of water, and big companies that want not just to provide it to us, but to sell it internationally, are circling. The Executive has a political problem that is at the root of the debate. It cannot move openly and publicly in the direction of privatisation and state its intention, because there is massive opposition to water privatisation in Scotland, so it is trying to achieve its objective by stealth. The WIC is in favour of privatisation. Private companies have been introduced by the Water Services etc (Scotland) Act 2005. Scottish Water and private industry are setting up public-private partnership, private finance initiative and venture organisations. It is clear that the business lobby is circling, waiting to get the guaranteed profits of Scottish Water. That is at the root of the problem, and that is why vigilance is needed.

Those of us who are opposed to water privatisation need to ensure that the public know what is happening and that the Executive does not get away with hiding it behind measures such as the 2005 act. If water is a basic human right, it should not be sold for profit. That is an ideology to which I am happy to subscribe.

11:06

Chris Ballance (South of Scotland) (Green):

Today we have heard members speak in support of keeping Scottish Water public, and against privatisation or mutualisation. I would like to introduce a further theme: democratisation. Scottish Water is compared with and benchmarked against the privatised companies south of the border, but there is no need for us to measure our vital water industry solely against water companies that were established by arbitrary acts of privatisation nearly 20 years ago.

The purpose of keeping Scottish Water public is to manage a public good in the public interest. In that respect, we could learn a lot from the Swedish approach. Stockholm water—Stockholm Vatten, or SV—has as its mission statement

“to meet the needs of consumers for water services; and to contribute effectively to ... sustainable development”.

Among its goals are satisfied customers, resource efficiency and a healthy environment; returning a profit to shareholders does not feature. Stockholm Vatten is owned directly by the city of Stockholm and, although not national in scale, it serves a million people. The composition of the board and consultative groups assures active participation by service users in the decisions that the organisation takes. Despite its explicitly social and environmental remit, in 2004 SV was delivering drinking water at less than half the price at which it is delivered in most European cities.

All too often the public sector is criticised as an inefficient, unproductive behemoth, as compared with a lean, efficient, responsive private sector. There has been enormous pressure at global level to create a global water industry. One third of all World Bank loans are dependent on privatisation; huge amounts of United Kingdom and other international aid have gone into developing private water supplies around the world. A frequent claim is that, under the general agreement on trade in services, Governments can be prosecuted by the World Trade Organisation for disallowing private sector attempts to take over essential public services. Critically, however, privatisation of water has proved such a political hot potato that the European Commission has announced that it will exempt water from the new GATS. Sweden is subject to the same EU regulations and directives as Scotland. The same is true of the Netherlands, where in 2004 a law was passed banning private provision of drinking water.

Another reason that we should be wary of benchmarking Scottish Water too much with English water companies is that often they are not English water companies. Thames Water was owned by the German utilities giant RWE until last October, when it was sold to Kemble Water Ltd, which is a consortium led by an investment fund

that is run by the Australian Macquarie Bank. Likewise, Wessex Water is owned by YTL Power International of Malaysia. Prior to that, it was the property of Enron. Are those the models that we wish to emulate?

I say to Murdo Fraser, do we want to compare ourselves with Enron, a byword for failure and corruption, or with the best in Europe? The choice is ours. I, for one, choose to support keeping Scottish Water public and keeping control of our water in Scotland, rather than abandoning it to a boardroom in Sydney or Kuala Lumpur or to faceless shareholders. With the advent of the Scottish Parliament, we have an unprecedented extension of democracy in Scotland. Let us use our powers to retain democratic control of our water supply, to protect the environment and to protect the interests of the customer.

11:10

Mrs Mary Mulligan (Linlithgow) (Lab): I am delighted to take part in this morning's debate. I reaffirm the Labour Party's commitment to keep Scottish Water in public ownership and under public control.

Mark Ballard: Will the member take an intervention?

Mrs Mulligan: No—I ask the member to let me get started.

In 2003, Labour and the Liberal Democrats agreed in the partnership agreement to retain Scottish Water in the public sector. The partnership agreement committed the Scottish Executive to invest in Scottish Water. That commitment has been divided into two sections. There are five objectives in the essential category: to improve the quality of 530km of rivers and coastal waters, to improve the quality of drinking water for 1.5 million people throughout Scotland, to tackle constraints on new developments, to take action on odour from 35 waste water treatment works, and to remove more than 1,100 homes from the risk of sewage flooding. This morning, I want to concentrate on the third and fourth of those: odour nuisance and new developments.

Mark Ballard: The member started by talking about privatisation. Can she explain why the Executive's amendment would remove the clause in the motion that commits Scotland to a public water system? Can she answer the question that was directed at Andrew Arbuckle—mutualisation, yes or no? Is she prepared to rule it out?

Mrs Mulligan: The member should ask the Executive about its amendment. I am saying clearly that we are committed to retaining Scottish Water in public ownership and under public control.

Mark Ballard: By we, do you mean the Labour Party or the Scottish Executive?

Mrs Mulligan: I would like to move on. The member may not find the issues that I want to discuss quite as crucial as that which interests him, but I think that they are important, because they relate to the service that Scottish Water is delivering. Although I want to keep Scottish Water under public control, I have concerns about the way in which it is being operated.

My first concern relates to odour nuisance. I make no apologies for citing a constituency example. Mr Montgomery, a constituent of mine in Linlithgow, lives a few hundred yards from a water treatment plant. He also runs his business from his house. Since the summer of 2005 he has experienced huge problems of fly infestation and, especially at the moment, of odour. Despite repeated complaints to Scottish Water, only short-term solutions have been found. The odour problem is now worse than ever.

Rob Gibson: Will the member give way?

Mrs Mulligan: I want to finish making my point, which relates to an issue that the member raised earlier.

Despite repeated complaints and support from the local authority, a water treatment specialist and even Scottish ministers, Scottish Water appears to think that one individual's complaint is not worth worrying about. Given that Scottish Water has not yet solved the odour problems that have been caused by the Seafeld treatment plant, perhaps the issue is not that my constituent is one individual, but that Scottish Water does not see dealing with odour as a priority. It should be a priority.

I am also concerned about issues relating to development. In areas such as West Lothian, where there has been substantial house building, we need to ensure that development is not held up by problems with water supply and that the burden of providing an additional water facility is not placed on local villages. Villages are being overdeveloped because developers are required to contribute to the provision of water services.

We need to look at the strategy and work practices of Scottish Water. Unlike the Tories, who would use any excuse to privatise it, I still believe that it should remain in the public sector. The minister has reaffirmed the Executive's commitment to keep Scottish Water in the public sector, and that is to be welcomed. People in Scotland should be in no doubt that the Labour Party will invest in our water system and keep it accountable to the people, through the Parliament.

11:14

Iain Smith (North East Fife) (LD): I welcome the opportunity to speak in this debate and to reaffirm not only that the partnership agreement between the Liberal Democrat and Labour parties in the Parliament commits the Scottish Executive to continuing the public ownership of Scottish Water but that the Liberal Democrats are firm in their opposition to the notion of privatising our water supply.

Mr Ruskell: Will the member give way?

Iain Smith: If the Greens want to intervene in speeches, they should realise that only by ensuring that their debates are of a proper length will members' speeches be long enough to take their interventions. I will not take any interventions from the Green party in this debate.

The arguments for privatisation do not make sense. For a start, Scottish Water compares favourably with other UK providers. It is expected that, in three years' time, Scottish Water's water and sewerage bills will be the third lowest in the UK—and that is despite Scotland's rural nature, which would be badly catered for by private companies. Under the current regulatory framework, which is based on the public ownership of the water supply and affirmed in the Executive amendment, the Executive is charged with providing a leading role in setting objectives for Scottish Water.

We need look only at the figures to realise how successful the Executive's approach has been. Under the current arrangements, running costs have already fallen by 40 per cent, which has meant an average saving of £200 for every household in Scotland. Domestic charges are falling in real terms, and non-domestic charges should fall by 6 per cent before the end of the decade.

At the same time, efficiency has increased by 20 per cent as a result of targeted investment and better maintenance of pipes, sewers and treatment works. Moreover, water quality has also improved, with 99.56 per cent of samples in 2005 meeting the highest EU standards.

Of course, that is not to say that Scottish Water does not face challenges. After decades of underinvestment, there is much to be done. For a start, the organisation must continue to rebuild and replace worn-out infrastructure, and special attention must be given to water leakages. Scottish Water's delivery plan commits it to a 50 per cent reduction in leakages by 2010. It is vital that that commitment is met.

Customer service must also improve, to ensure that standards across Scotland are consistent. I acknowledge that issues have arisen over the

WIC's role with regard to customers. Scottish Water must be customer focused, although it must also bear in mind that its customers are not just the individuals who turn on their taps or flush their toilets, but communities. It plays an important role in that respect and it needs to address a number of problems about how it responds to communities' concerns.

I have a long list of problems with Scottish Water in my constituency. For example, Springfield, which I used to represent on Fife Council, has suffered from a problem with sewage smells for many years. Although a solution had been agreed before I stopped being the councillor for Springfield, it seems to have disappeared. Sewage smells are still a problem in the area and, despite the fact that dealing with such problems is one of its priorities, Scottish Water has simply failed to act in this instance.

Scottish Water and Fife Council are arguing over responsibility for dealing with a leak on Largo Road in St Andrews. Surely they should just get together and sort the problem out. Moreover, there have been endless problems in the east neuk, particularly in St Monans, Cellardyke and Crail. In Kettlehill, the small matter of installing the right water pressure valve to stop leakages has still to be resolved. Scottish Water needs to take into account various issues in respect of its community role, and I hope that the minister will comment on how to ensure that Scottish Water responds more positively to local communities' concerns.

Although the Scottish Executive's public sector model for Scottish Water has led to significant improvements, that is not to say that the same model should be in place for ever. Indeed, other public sector options might emerge that ensure that Scottish Water remains publicly owned but give it more freedom in the longer term. I am not ruling anything like that out. An opportunity for mutualisation within the public sector might become available, but I certainly do not want the type of private sector mutualisation that the Conservatives are suggesting, which would only make Scottish Water ripe for private sector takeover.

11:18

Alex Johnstone (North East Scotland) (Con): Although I did not speak in the preceding debate, I am very glad I sat through it, because I have been very interested in the contrast between the two. There was a lot of consensus in the chamber on green procurement, but in this debate the only consensus that we have reached is that something is not right with Scottish Water.

Many parties in the chamber share the view that the way in which Scottish Water has been

structured economically makes it ripe for privatisation in the long term. In that respect, I feel myself agreeing with some of the views that have been expressed in the Greens' motion and in speeches made by Scottish National Party and Scottish Socialist Party members. Even more interesting, members of the Executive parties have made a number of strong comments on the matter. They have been willing to stand up and profess their support for retaining Scottish Water in the public sector and under public ownership, but they have expressed concerns and made their own projections about what will happen in the future.

The fact is that the current governance arrangements for the water industry in Scotland were introduced to meet a perceived problem at the time and can only now be seen as a transitional measure. Everyone in the chamber agrees that a different solution must be found. Indeed, even Iain Smith seems to believe that the current arrangements are transitional.

The water industry is different things to different people. To many in the Labour Party, it is a totem of public ownership over which they will argue for ever more. To customers, it represents a redistributive taxation system that overcharges some to support others. Well, I know people in Scotland who need support to meet their water charges. The cross-subsidy system, which has resulted in business water users being charged £44 million too much, is a ball and chain for large areas of the Scottish economy and should be dealt with urgently.

The problem of development constraints and the failure to establish a structure that allows investment to take place at the necessary pace and in the necessary areas is not only preventing economic development in certain places, particularly in the east of Scotland, but restricting our ability to conform to certain environmental requirements that we struggle every year to meet.

Maureen Macmillan: Will the member give way?

Alex Johnstone: No.

Something needs to be done about Scottish Water. Many hold the straightforward view that it is ripe for privatisation. However, under the option offered by the Conservatives, the Scottish water industry can be retained in the service of its customers without becoming a bundle of shares to be sold around the world. We need a sound water industry. To that end, we must take action to free it from the dead hand of government and ensure that it gets the necessary resources from the capital markets to develop as it needs to.

Scotland needs a strong water industry that is secure in the long term. That can be achieved only

by moving Scottish Water out of public ownership and into the mutual model that has succeeded so well in Wales. We must get together to work towards that concept now.

11:23

Stewart Stevenson (Banff and Buchan) (SNP): I congratulate the Greens on securing this very important debate. I can confirm that the absence of an SNP amendment means that we will support their motion at decision time.

The debate has highlighted a number of important points and illustrated a number of fundamental flaws in members' thinking. Perhaps the most fundamental is the idea, which emanates from the Conservative benches, that private ownership is good and public ownership is bad. Equally, we should not imagine that the reverse is necessarily the case. Just as the public sector is capable of success and failure, the private sector is also capable of success and—something that is less seen—very significant failure. Indeed, when there has been a crossover between the two—for example the involvement of the Capita Group and Electronic Data Systems as major contractors to the Government down south—the private sector has failed massively to deliver.

However, does such an example tell us that when the private sector conducts its private business and does not interface with the public sector it is as capable of making mistakes as the public sector? The question—it is important that we ask questions—is whether people in the public sector are capable of delivering good financial performance, meeting public objectives and supporting the people of Scotland. Of course, the answer is yes. We simply have to choose structures that make that possible.

Sarah Boyack said that the Labour manifesto has not been written yet. Oh dear. We thought that the Labour Party campaign was not going too well, but we now realise that its state of preparation is even poorer than we imagined. It is okay that Labour's manifesto has not been published yet, but the fact that it has not even been written shows the extent of the challenge that Labour faces. I hope that, in her closing remarks, the minister will nail her colours firmly to the mast, as her party's back benchers have done and as I think the Liberals have done—although Iain Smith was a little equivocal—and say that the future of Scottish Water lies in the public sector.

Iain Smith: I am happy to be unequivocal—we will ensure that Scottish Water stays in the public sector. What is the SNP's policy? It has not even lodged an amendment to the motion.

Stewart Stevenson: We support the Greens' motion, which advocates keeping Scottish Water

in the public sector. We are with the Liberals on that—it is an area of broad agreement, although we might differ on matters of detail.

The Tories talk about service to customers. Aye, but the whole point is that the water industry provides an infrastructure that services public policy as well as private customers. It is unlikely that we would have two infrastructures for water delivery, which would involve two sets of pipes going all over Scotland. That is why the water industry is different from some other industries that have been privatised.

I want to raise some constituency issues. I have mentioned the case of Banff and Buchan College before. A hotel in my constituency has just received a bill for £35,000. Again, that was the result of inaccurate and incomplete meter reading by the private sector company that was contracted by Scottish Water.

We warmly welcome the fact that, in Scottish Water's strategic plans, developments must be supported. That is good. My colleague John Swinney has been banging on about that for some considerable time. However, we must address how capital funding takes place and we must get from the minister a sincere assurance that Scottish Water will stay in the public sector. If she fails to make that clear, all protestations of Labour's support for Scottish Water will fall on deaf ears.

11:27

Sarah Boyack: Let me begin by quoting from the Scottish Executive's amendment, which

"welcomes the substantial improvements that have been made in Scottish Water's performance, all of this having been achieved while keeping Scottish Water in the public sector ... and affirms that Scottish Water operating in the current regulatory framework will go on to deliver further improvements in this vital public service."

Our position could not be clearer, as the speeches by Labour back benchers such as Maureen Macmillan and Mary Mulligan have affirmed. Iain Smith spoke for the Liberal Democrat party. It is entirely obvious what the Scottish Executive amendment means.

A number of members have disputed the success of Scottish Water over the past few years, but the company deserves to be congratulated, which is why our amendment welcomes the huge progress that has been made. Scottish Water is not a failing company or one that has not received clear directions on sustainable development. It is a public sector company that works within a regulated framework and which is delivering for Scotland. Our policies and our effective regulation mean that Scottish Water is delivering improved performance for less money.

The statistic that most people in Scotland care about is that Scottish Water's average household charge in 2006-07 is £287, which is £7 less than the equivalent charge in England and Wales. By 2009-10, the difference will be even greater.

Murdo Fraser: Will the minister take an intervention?

Sarah Boyack: No, thank you.

Andrew Arbuckle was absolutely right to highlight the contrast between investment now and the historical lack of investment, when water services languished as a low priority for cash-strapped regional councils.

I do not accept that the current system was set up deliberately to facilitate privatisation. Over the past few years, three companies have been merged into one. We have given Scottish Water a massive investment target and other, detailed targets. Maureen Macmillan was right to highlight efficiency and the importance of tackling leakage. The Water Industry Commission has set specific leakage reduction targets for Scottish Water, under which it must close 50 per cent of the gap between its current performance on leakage and the economic level of leakage by 2010 and, in the interim, reduce that gap by 16 per cent by 2006-07 and by 25 per cent by 2007-08. Those are tough targets. If members want us to go further, faster, we must pay more or rein back other projects for which there is support in the Parliament. The challenge for the next investment regime is to pick up the excellent points that Maureen Macmillan made about the need to ensure that we make progress on water conservation.

I think that we are delivering on sustainable development and I do not accept the Greens' argument that Scottish Water is not tackling the issue. The company is taking highly specific measures. Efficiency gains must be linked to sustainable development. Why should we not use innovative techniques to renew water mains so that minimum disruption is caused to customers? Such techniques allow 36km of pipes to be laid per week in the busiest periods. Why should we not cluster similar projects instead of wasting resources on the design of unique projects? Why should we not have rigorous project management to achieve efficient and effective solutions? Why do we not implement no-dig solutions for renovating sewers, which cause communities less disturbance and which save time and money?

Sustainable development principles and economic efficiency can be combined in numerous ways. That is why the Scottish ministers' directions require Scottish Water to deliver its aims sustainably. However, we must ensure that economic regulation—

Stewart Stevenson: Will the minister take a 12-word intervention?

Sarah Boyack: Let us count how many words the member uses.

Stewart Stevenson: Given the 100-year life of water infrastructure, over how long should the funds to pay for it be paid back? I have run over by two words.

The Deputy Presiding Officer (Trish Godman): You are in your final minute.

Sarah Boyack: The SNP has made its position no clearer this morning. We have had three different speeches from SNP members, none of whom has lodged an amendment to the motion. I will take no lectures from a party that has been comprehensively defeated every time it has brought forward its alternatives.

We have made clear our financial position and our investment programme is under way. During the first session of the Parliament, we set a £1.8 billion investment programme; now it is a £2.5 billion programme. The Executive has committed to ensuring that that investment takes place. Jim Mather made an extremely casual comment about the implementation of EU directives, which are in place to improve the quality of our environment. We need to meet them.

Scottish Water and the framework under which it operates—whereby public sector control by the Scottish Executive is combined with economic regulation—are unique. The system that is in place gives us the best of both worlds. Ministers are able to set policy objectives that have been approved by the Parliament, while economic regulation ensures that we can afford the necessary investment. It is important that we draw those two aspects together. Excellent environmental improvements are being delivered because Scottish Water is operating more efficiently. That is good news for the environment and for customers.

11:32

Mark Ballard (Lothians) (Green): After this debate, what is the future for Scottish Water? We already knew the Tories' position: they want to privatise Scottish Water. For this morning's debate, they have put forward the mutual model that is used by Welsh Water. The Tories' thinking was given away in Murdo Fraser's speech, in which he described Welsh Water as the top private water company in the UK. When Murdo Fraser talks about the mutualisation of Scottish Water, he is talking about it becoming a private company. That is what mutualisation means to him.

The remarks of Rob Gibson and Jim Mather about the flaws in accounting and in the operation of the economic regulator are to be welcomed. The fact that the regulator's primary focus is economic means that environmental and social issues are not taken into account.

Frances Curran's wise counsel was that we must remain vigilant to the vultures that are circling above Scottish Water, which recognise the easy pickings that they could get from a privatised Scottish Water.

Stewart Stevenson identified the crux of the debate—it offers us an opportunity to nail our colours to the mast. Will Scottish Water be a private or a public company? That is what the debate is about.

What did members of the Executive parties tell us? Andrew Arbuckle gave us a history lesson, in which he went back to the situation in Fife in the 1960s.

Labour members—and Iain Smith—talked about the history of the past four or eight years and the content of the partnership agreement. Why was that? Alex Johnstone made a good point when he said that the current arrangements seem to be transitional. The Executive is still not making clear what the future holds.

Sarah Boyack said that she had nailed her colours to the mast in the Executive amendment. The amendment acknowledges the past achievements of Scottish Water while in the public sector. It is right that we celebrate those achievements. However, it is crucial that although the amendment acknowledges Scottish Water's history of success, as does our motion, it does not include a commitment to keep Scottish Water in public ownership and under public control. Instead, it suggests that the Parliament

"affirms that Scottish Water operating in the current regulatory framework will go on to deliver further improvements in this vital public service."

We all know that Scottish Water will do that—it has a plan to do so until 2010. However, what will happen after that? What is the future for Scottish Water? What is the Executive's long-term vision? That is the issue.

Mark Ruskell put it well in his four-word intervention during Andrew Arbuckle's speech—he must hold the record for the shortest intervention—when he asked, "Mutualisation: yes or no?" Andrew Arbuckle referred to comments made by Ross Finnie, who I think was reported in *The Scotsman* as saying that it would be an unwise politician who ruled out options for the future. The crux of the matter is that the Executive refuses to rule out mutualisation.

Mr Arbuckle: Will the member give way?

Mark Ballard: I am sorry, I do not have enough time.

In practice, mutualisation means that money is borrowed not at the cheaper rates that the Government can get through the public sector borrowing requirement but at the more expensive rates of the finance markets. In all mutualisation models that have been proposed, money is borrowed privately and not through the PSBR. That is the division between public and private. We must ask whether we want a company that is accountable to the people of Scotland, which borrows money through the PSBR, or a mutual or private company that is ultimately accountable to shareholders or to the bankers who lent it money.

Murdo Fraser: Will the member give way?

Mark Ballard: I am sorry. I do not have enough time.

Welsh Water, which was held up as an example by Murdo Fraser and other members, employs 152 people. The rest, who work effectively to provide a water system for Wales, are employed by various consortiums in the private sector. An industry that employs 3,000 people in the private sector is not a model of public service delivery by the public. The mutual model in Welsh Water is a Trojan horse—we should be clear about that.

As Mark Ruskell, Rob Gibson and others said, there are problems with the regulatory system and how it accounts for social and environmental factors. Many members talked about problems to do with housing, and Maureen Macmillan mentioned smell—

Maureen Macmillan: I did not.

Mark Ballard: Sorry. That must have been another Labour back bencher.

The fact that the WIC is, ultimately, an economic regulator is a serious problem. Whether there are tensions with SEPA about drinking water or with the Scottish ministers, the WIC is ultimately accountable to the Competition Commission for economic regulation and does not have the wider social and environmental remit that it should have.

Water is not just a commodity like any other commodity. Our water industry is a vital resource, not just for new building developments but for human health. That is why, when the Victorians installed the water infrastructure that we now seek to replace, they did so as a public enterprise. The civic fathers in Glasgow responded to the concerns of medical officers such as James Burn Russell. We need to match the Victorian civic infrastructure with a new public infrastructure.

Water is the classic sustainable development issue because it concerns the economic, social and environmental health of our nation. It is too

important to be run for the benefit of shareholders and bankers. As a result of massive public opposition to a sell-off, the industry in Scotland remained in public ownership when the industry south of the border was sold off. Water must remain public for the future. Parties and the Executive must nail their colours to the mast. I urge members to do so by supporting the motion.

Question Time

SCOTTISH EXECUTIVE

General Questions

11:40

Economic Growth

1. Derek Brownlee (South of Scotland) (Con):

To ask the Scottish Executive what impact its policies have had on economic growth since 1999. (S2O-11820)

The Deputy First Minister and Minister for Enterprise and Lifelong Learning (Nicol Stephen): Since devolution, the policies of this Executive have laid the foundations for continued economic growth and job creation in Scotland. The latest figures show that since 1999 the economy has grown by 11.9 per cent. The economy has grown above our long-run annual average in each of the past nine consecutive quarters.

Derek Brownlee: That is interesting, because Professor Brian Ashcroft told the Finance Committee on 16 January that there has been

"a relative decline in the Scottish economy since 1996."—*[Official Report, Finance Committee, 16 January 2007; c 4298.]*

Is that down to the Executive, too?

Nicol Stephen: That is inaccurate. We need to treat quite a lot of what the Conservatives say on the issue with a great deal of caution, too. As members know, earlier this week I heard Annabel Goldie announce that she is tearing up most of the Conservatives' key policies—although she did not seem to have an exhaustive list. The Conservatives have U-turned on the economy and education. Perhaps I should issue a challenge to the Conservatives. Will they now support the Edinburgh airport rail link, which will help Scottish financial services? Will they support Scottish Enterprise's work on skills training, business support and economic regeneration, which is helping to create jobs and growth in Scotland? If the Conservatives cannot answer those questions, I assure members that the Executive will continue to build economic growth in Scotland and to exceed our average long-term growth rate in Scotland, as we have done for the past nine quarters.

Jim Mather (Highlands and Islands) (SNP): I wanted to thank the minister for his answer, but his reference to inaccuracy was just too good. Gross domestic product is a poor and inaccurate measure of a branch economy and the reindexing

of GDP on a rolling basis makes it more inaccurate.

How much additional economic growth would have been generated by Scottish business if business rates and water charges in Scotland had been no higher than charges in the rest of the United Kingdom?

Nicol Stephen: As Jim Mather knows, business rates in Scotland are coming down. I hope he welcomes that.

I have been talking about the chaos at the centre of Conservative policy, but it is important and only right that we should hear from the Scottish National Party. I discovered an old SNP policy document, which says:

"Sterling is a highly volatile currency, the value of which has consistently failed to reflect the prevailing conditions in the Scottish economy.

Sterling interest rates ... consistently fail to reflect the prevailing conditions in the Scottish economy."

Why has the SNP now decided that its economic plans involve interest rates and exchange rates being determined by the central bank of another country and the policy of a foreign Government? The currency will be sterling and the foreign interest-rate-setting body will be the Bank of England. I set a target for Jim Mather: he should try to reduce the number of SNP policies on the pound and the euro from two to one.

Murdo Fraser (Mid Scotland and Fife) (Con):

On a point of order, Presiding Officer. This is all very entertaining, but there is a serious point. The minister has made no attempt whatever to answer the substantive points that were put to him in two questions. He has responded by making party-political points. Under the standing orders of the Parliament, can you do anything to compel ministers at least to attempt to address the questions that are put to them?

The Presiding Officer (Mr George Reid): I can look encouragingly, but under our standing orders I am responsible for the questions, not the answers. The answers are a matter for the Executive.

Planning System (Mediation)

2. Patrick Harvie (Glasgow) (Green): There will now be only the slightest change of tone, Presiding Officer.

To ask the Scottish Executive what the role of mediation will be in the reformed planning system (S2O-11893),

even if this Parliament might be a more appropriate place for mediation.

The Deputy Minister for Communities (Des McNulty): Mediation is one of a number of

measures for engaging communities that we would see planning authorities adopting under the new planning system.

Patrick Harvie: I am pleased to hear that answer because there is general agreement on the value that mediation can have in the planning system. However, a proposal for a pilot project on mediation in planning has been under discussion for more than two years now, and the Executive has had detailed proposals for more than a year and a half. When will progress be made? When will the minister be able to come to Parliament to report that the pilot project is going ahead?

Des McNulty: We are currently scoping taking the mediation pilot ahead, focusing on the development planning process. The intention is to commission it in 2007. We are working with the different parties involved to ensure that that is done properly.

To help develop the range and scope of issues for the pilot project, a literature review was commissioned to see how mediation had been used in planning in the past. As I say, the intention is to take this forward. It will be done before the end of 2007.

Christine Grahame (South of Scotland) (SNP): Has the minister considered how mediation is used in planning in the state of Maryland, where it is used extensively? If not, will he do so?

Des McNulty: I have not considered mediation in the state of Maryland, but if Christine Grahame is suggesting that it is interesting, I will certainly ask officials to have a look at it.

Dave Petrie (Highlands and Islands) (Con): I thank the minister for at last answering questions.

We accept the obvious benefits of mediation to the planning process, but does the minister agree that the practice must not be employed in such a way as to be an overly expensive delaying tactic that could conflict with the aims and objectives of a fast-track and inclusive modernised planning system?

Des McNulty: Dave Petrie is correct to suggest that the whole purpose of the planning system is to speed up and streamline the mechanism. We really would not want to bring in any process that took away from the clear benefits of streamlining.

We have to identify the purposes of mediation and the circumstances in which it will be helpful. If we are going to introduce a system, we will have to ensure that it is fit for purpose and is applied properly. That is why it will be necessary to do a decent study, taking all the relevant information into account.

Gypsy Traveller Sites

3. Mr David Davidson (North East Scotland) (Con): To ask the Scottish Executive whether it plans to give local authorities more powers to move unauthorised Gypsy or Traveller encampments quickly to official sites and to recover the costs of relocation, provision of toilet and waste facilities and clean-up after the unauthorised sites have closed. (S2O-11837)

The Minister for Communities (Rhona Brankin): There are no plans to give more powers to local authorities to move unauthorised Gypsy/Traveller encampments on to official sites. A range of powers are already in place, under both civil and criminal law, which local authorities and local police can use to manage the incidence of unauthorised encampments and the impact on the local environment and community. In addition, the Scottish Executive published guidance in December 2004 to assist local authorities with this. The Executive is providing £3 million in Gypsy/Traveller site grant between 2005-06 and 2007-08 to local authorities.

Mr Davidson: I thank the minister for her partial answer and for the copy of the guide on unauthorised camping that she very kindly sent me the other week.

At the moment, Aberdeen City Council is desperately trying to close an unauthorised site, but it does not have the powers to do so. It has tried informal methods, it has tried discussion and it has tried mediation—which we talked about a moment ago. The police will not get involved and the council is now having to incur huge costs in going to the courts in order to get the police to take action eventually. The council has spent tens of thousands of pounds clearing the site.

I wonder how many other councils are in a similar situation. Is the Executive not prepared to take action? Unauthorised sites disrupt the lives of regular citizens.

Rhona Brankin: Opportunities are available to local authorities. Various provisions in civil and criminal law can be used to deal with unauthorised camping—provisions relating to vandalism; the dumping of rubbish; unwanted property; planning; and obstructing the highway. There are also common law offences such as breach of the peace and malicious mischief. Sections 61 and 62 of the Criminal Justice and Public Order Act 1994 could also be used—they deal with criminal trespass and the removal of vehicles.

Mr Davidson referred to the guidance on unauthorised encampments. That guidance is there to help local authorities and the police to manage situations.

Therefore, there are provisions in relation to unauthorised encampments. The provision of £3 million should assist local authorities as well.

Linda Fabiani (Central Scotland) (SNP): I listened to what the minister said about guidance. Will the minister tell me how, in the absence of a specific provision in the recently agreed Planning etc (Scotland) Act 2006, the Executive will ensure that the needs of Gypsy Travellers—who are also citizens of this country—will be met?

Rhona Brankin: Our guidance to local authorities makes it clear that local authorities should provide strategies in their area in collaboration and consultation with Gypsy/Traveller communities.

The Presiding Officer: Question 4 is not lodged.

M77 (Barrhead)

5. Mr Kenneth Macintosh (Eastwood) (Lab): To ask the Scottish Executive what action is being taken to upgrade junction 4 on the M77 to improve access to Barrhead. (S2O-11875)

The Deputy Minister for Finance, Public Service Reform and Parliamentary Business (George Lyon): Transport Scotland has been in discussion with East Renfrewshire Council about the possibility of upgrading this junction to provide south-facing slip roads.

Transport Scotland has asked East Renfrewshire Council to undertake an appraisal and will continue to work with the council to determine whether the need for the improvement is justified.

Mr Macintosh: As well as the benefits to the wider area offered by a new park-and-ride at junction 4, is the minister aware of the advantages that a new junction would give to the regeneration of the town of Barrhead? Direct access to the motorway network would attract jobs and businesses and would bring prosperity to the wider area. Will the minister ensure that improvements to the junction will be considered in the strategic transport projects review?

George Lyon: I am well aware of the arguments that Mr Macintosh has made in favour of this improvement. As I said, East Renfrewshire Council has been asked to prepare an appropriate appraisal. I understand that once an appraisal under Scottish transport appraisal guidance has been carried out, I will of course be able to assure the member that the project will be considered as part of the strategic transport projects review.

Tourism (Marketing)

6. Mr Andrew Welsh (Angus) (SNP): To ask the Scottish Executive what further steps it is

taking to improve the marketing of tourism in Scotland. (S2O-11812)

The Minister for Tourism, Culture and Sport (Patricia Ferguson): VisitScotland's imaginative techniques and use of new technology ensure that its award-winning marketing is constantly improving.

Mr Welsh: Although VisitScotland deserves praise for much of its work, a gap in perception exists. There is a sense of frustration and condemnation among providers. They feel that VisitScotland charges are added to fees charged by hubs; that a percentage charge is put on business that is sent to them; and that, on top of all that, a charge is made to the tourist. Providers feel that VisitScotland simply does not meet their needs.

Is the minister aware of dissatisfaction with the operation of the national website and its booking system—a feeling that it is a commercial venture to earn profits for a private firm, rather than a service to meet the direct needs of small businesses throughout Scotland? What is the minister doing to heal the division and to link Scotland's small businesses with the national and international system?

Patricia Ferguson: Tourists coming to our country wish to book their accommodation and experiences through a variety of methods, one of which is the national website visitscotland.com—which I would emphasise has a slightly different structure from VisitScotland, which is the core agency for tourism in Scotland.

I would be the first to acknowledge that visitscotland.com has not been without its difficulties, but since its inception the website has encouraged thousands—millions—of visitors to come to our country. The website is not the only way in which visitors can book their accommodation; many people use the website as an information portal and then book directly with the individual business providers.

However, visitscotland.com is taking all opportunities to improve its relations with individual providers and with different geographical areas of the country—for example, by inviting tourist information centre staff to work in the call centre and by allowing call-centre staff to pick up more information about what is available in local areas. It is fair to say that visitscotland.com is taking all the steps that it can.

Air Discount Scheme

7. Mr Alasdair Morrison (Western Isles) (Lab): To ask the Scottish Executive whether it will provide an update on the air discount scheme. (S2O-11879)

The Deputy Minister for Finance, Public Service Reform and Parliamentary Business (George Lyon): As at 1 January 2007, there were 90,293 members of the air discount scheme in eligible areas of the Highlands and Islands, including 26,653 in the Western Isles, Mr Morrison's constituency.

In total, 14,326 residents have accessed discounts under the scheme, including 5,202 in the Western Isles. A total of 74,133 flights were booked with discounts between May and December 2006.

Mr Morrison: As the minister's answer proves, the air discount scheme has been remarkably successful and has benefited many islanders and island businesses. Now that the Scottish Executive has established the principle of, and implemented in practice, a discount scheme that discriminates in favour of island residents, will the minister—as a fellow islander, in common with the First Minister—agree with me that this valuable and eminently sensible principle can and should be applied to ferry travel?

George Lyon: I concur with the member's views on the warm welcome that the air discount scheme has received on the islands. In Islay, which I represent, the scheme has been well received and much used. As I stated at the Islay conference on the future of the islands, we need to go further in looking at improving the affordability of ferry services. Islanders need a greater direct benefit from the £30 million annual subsidy for ferries. The air discount scheme is a model that needs to be examined further in the context of ferry fares.

Mr Jamie McGrigor (Highlands and Islands) (Con): Chancellor Gordon Brown's latest tax increase came into force today, with another £10 being levied on every passenger who takes a domestic flight. I am concerned that, as well as being an extra burden on those who live in the Highlands and Islands, the extra tax will be a real disincentive to those who might be considering visiting some of the remoter parts of Scotland, many of which are very reliant on tourism. What representations has the Scottish Executive made to the United Kingdom Government on the tax increase? Will the minister assure me that, if it has not already done so, the Executive will fight to oppose the increase and any further increases that raise money for Gordon Brown at the expense of the north of Scotland's tourism sector?

George Lyon: I understand that the tax does not apply to outward flights, but I think that it is rather disappointing that the increase applies to inward flights. That seems to run contrary to the Executive's attempts to improve air transport for islanders. I can assure the member that the Executive makes representation to the Chancellor

of the Exchequer on a wide range of matters, including this one, and will continue to do so.

Fireworks Ban

8. Margaret Jamieson (Kilmarnock and Loudoun) (Lab): To ask the Scottish Executive what discussion it is having with the United Kingdom Government regarding the possibility of implementing a ban on personal use of fireworks. (S2O-11869)

The Presiding Officer: I call George Lyon to respond. Mr Lyon?

The Deputy Minister for Finance, Public Service Reform and Parliamentary Business (George Lyon): The Scottish Executive is in regular contact with the UK Government on a wide range of issues, including fireworks. We continue to monitor the effectiveness of regulations that have been made under the Fireworks Act 2003 but we do not believe that a case has been made for further controls at present.

Margaret Jamieson: I thank the minister for his somewhat belated response.

The minister's answer gives me cause for concern. A number of my constituents have written to him in the last month, but letters that were addressed to him have been passed to the Department of Trade and Industry by his officials. Is he aware of the curt response that my constituents have received from the DTI correspondence official? Will he undertake to investigate the matter and to provide an appropriate response to my constituents on what is a very important issue?

George Lyon: I am aware that close to 100 representations on the problems of fireworks have been made by the member's constituents and have been passed to the DTI. I will undertake to examine the response that her constituents received. I reassure her that the Executive is always willing to examine the issue in the light of such representations to see whether a case could be made for further representations to the UK Government for a further change in the law.

Mr Charlie Gordon (Glasgow Cathcart) (Lab): Is the minister aware that I, too, am disappointed by his response to Margaret Jamieson's questions? When I raised a similar question with him on 30 November 2006, he undertook to monitor complaints to the police and to local authorities. According to the *Official Report*, he also undertook to discuss the representations that I have had on the issue. Kicking it for a shy to the DTI hardly fits the bill.

George Lyon: As I said in my previous answer, we have examined the letters that have been sent to us. We are aware of the representations that

Charlie Gordon and other members have made. As I said in my answer to Margaret Jamieson, we are always willing, in the light of representations, to consider whether a case can be made for going further on the matter.

First Minister's Question Time

12:00

Prime Minister (Meetings)

1. Nicola Sturgeon (Glasgow) (SNP): I welcome to the public gallery pupils from Eastern primary school.

To ask the First Minister when he will next meet the Prime Minister and what issues they will discuss. (S2F-2683)

The First Minister (Mr Jack McConnell): I have no immediate plans to meet the Prime Minister.

Nicola Sturgeon: Perhaps that is wise, given the breaking news that Tony Blair has been interviewed by the police for a second time in relation to the cash for peerages investigation.

Why has the First Minister failed to deliver on his promise to improve school discipline?

The First Minister: That is not the case at all. The reality throughout Scotland is that there are improved teacher numbers, improved school buildings—which the nationalists oppose—and improvements in facilities for dealing with troublesome pupils, and we have evidence this week that head teachers are using the direction that they have been given and are excluding more pupils than they were six or seven years ago. All those indicators point to the fact that schools today are dealing with discipline more effectively than they have done in the past. Schools cannot be solely responsible for dealing with the problems in wider society with today's younger generation, but they can, as institutions and services, function more effectively than they were doing. I believe that the vast majority of schools throughout Scotland are doing that.

Nicola Sturgeon: Not for the first time, the facts tell a completely different story. I remind the First Minister that figures that were released this week show that, since the start of this session of Parliament, the number of pupils who are excluded from schools has gone up by 18 per cent. Is he aware that, in primary schools, the situation is even worse? Since 2003, the number of primary-age children who are excluded from school has gone up by 40 per cent. Should that not be a cause for the most serious concern?

I remind the First Minister that his policy in the first session of Parliament to try artificially to reduce exclusions by setting targets was a complete and utter failure. Do not the recent figures prove that his policy in this session of Parliament to deliver "a downward trend" in school

exclusions by “addressing bad behaviour” has also failed? Will he explain why?

The First Minister: I do not want to comment specifically on the policies of predecessors, as it can be unfair to do so. However, I want to be clear that the policy on school exclusions was changed following my election as First Minister, precisely because I believed that it was wrong to set a cap on or a target for school exclusions. The figures that the Tories produced this week are inaccurate and misleading. The reality is that it is essential that head teachers and teachers can remove from classrooms and schools youngsters who cause trouble. The reaction of the nationalists and the Conservatives this week to the misleading figures that the Conservatives published indicates yet again that they are prepared to say one thing at one point and a completely different thing at another. Before the policy was changed, the nationalists and the Conservatives called—correctly, in my view—for the target on reducing school exclusions to be put to one side and for teachers and head teachers to have a clearer instruction to use the exclusion powers that are available to them. Then, when head teachers and teachers actually use the power, the nationalists and the Conservatives use that to make a case against the very point that they raised in the first place.

That is another example of the fact that the nationalists and, occasionally, the Conservatives are prepared to say anything to try to win votes and curry favour with the public. It does not work to be that inconsistent. School discipline requires consistent, determined work by schools and back-up by politicians on everything, from issues that might appear minor, such as school uniforms, right through to exclusions and tougher action against those who cause the most serious trouble. Our duty as politicians is to back up those who have the hard job of making the measures work.

Nicola Sturgeon: The figures to which I referred were Government figures, and the predecessor to whom the First Minister referred was education minister Jack McConnell. Back in 2001, he said that rising exclusions were a sign that other policies were not working. No one wants an artificial reduction in exclusions; people want an actual reduction that is brought about by better behaviour.

I draw the First Minister's attention to the reality in our schools last year. There was a 40 per cent increase in persistent disobedience, a 40 per cent increase in the verbal abuse of staff, an 88 per cent increase in offensive behaviour and more than 10,000 violent incidents, nearly 1,000 of which involved the use of a weapon.

I remind the First Minister that, in Labour's manifesto for the previous Scottish election, he

said, “We will ... improve discipline” in schools. Will he accept that he has completely failed to deliver on that promise?

The First Minister: Not at all. The nationalists and the Conservatives distort the figures in an extremely misleading way. For example, the figures that were being distorted this week include, for the first time, a proper, comprehensive addition of the day-to-day experience of teachers in special schools. In the past, teachers in such schools did not record verbal or physical reactions in the classroom as part of national or even local statistics, for the good reason that youngsters could be involved in such incidents because of their disabilities—they do not necessarily understand that they are being violent or abusive. However, those statistics are now properly recorded, because it is important that, year on year, we are able to monitor improvements in all our schools, including our special schools.

I admire teachers for being willing to make the change and ensure that the figures are included in the statistics. It is wrong for politicians to use their position to distort the statistics and mislead the public and parents in the way that Nicola Sturgeon does. The truth is that Scotland's schools are safer places because of the actions that we have taken, and better places because of additional teachers, improved school buildings, an improved curriculum, additional resources and better behaviour from pupils.

I taught in Scotland's schools when the kids in them were demotivated and felt that they had no hope and no future outside school because of a Conservative Government's economic actions. When I go round schools today, I find senior pupils helping younger ones in primary and secondary schools. I find eco-committees in which the schools and the kids work with parents and local communities to deliver a better future and understand the society in which they live. I find better results in primaries and secondaries. In classroom after classroom, I also find improvements in school discipline because of hard work by teachers and better behaviour from pupils. It is time that the nationalists and the Tories backed up Scotland's schools and teachers instead of attacking them all the time.

Nicola Sturgeon: To be frank, it is disingenuous for the First Minister to argue that the situation in special schools explains his failure. I admire teachers too; it is the Government that is failing to deliver.

The First Minister says that education is his top priority, but he said that at the previous election and the election before that, and has failed to deliver. I remind him what has happened since 2003: indiscipline has got worse; the number of primary teachers has fallen; and class sizes are

still far too big. I suggest to him that education is vital and that Scotland has huge potential but, to fulfil that potential, we need less rhetoric from a failing First Minister and real action from a new Government with fresh ideas and the will to deliver.

The First Minister: Members from across the parties will notice that, in four statements from Ms Sturgeon, which partially included questions, there was not one policy, initiative, idea or grain that might inspire Scottish youngsters, teachers and parents or improve their lot. The truth is that, in education in Scotland today, we have more teachers, better school buildings, improvements in the curriculum and better results for the youngsters, who are themselves helping to improve discipline. Those youngsters make me proud because they are helping to build the better Scotland that we want. Ms Sturgeon and the Scottish National Party have a completely different priority for Scotland, which puts separation before education. That will never happen because, as long as I am First Minister, education will come first.

Cabinet (Meetings)

2. Miss Annabel Goldie (West of Scotland)

(Con): To ask the First Minister what issues will be discussed at the next meeting of the Scottish Executive's Cabinet. (S2F-2684)

The First Minister (Mr Jack McConnell): The Cabinet will discuss a number of issues that are important to Scotland.

Miss Goldie: The First Minister is well aware of the horrific problems that Midlothian Council has with its social work department. Unlike some, I do not seek to blame him directly for the situation. It is right that local authorities deal with such issues, and they should be judged by the electorate.

That said, it is important to establish the Lib-Lab pact's role in and knowledge of this deeply worrying affair. We know that Midlothian Council has been aware of the problem since 2004 and has apparently been sitting on a report since September 2006. Therefore, will the First Minister tell me when he knew about the problem, in which other councils it is replicated and how many Scottish children are in similar danger?

The First Minister: I will start at the end of Annabel Goldie's question, which deserves to be treated seriously because this is a desperately serious issue for youngsters in Midlothian and elsewhere in Scotland.

I do not have figures for the numbers of inspections that are currently taking place, but I am happy to provide them to Annabel Goldie afterwards. What I know is that the report was drawn to my attention last week, and I am aware

that the Minister for Education and Young People and his officials were involved in preparing in advance for its publication. There have been discussions with Midlothian Council, in particular to ensure that it has an effective action plan in place to deal with the deficiencies that have been identified. I also note that this morning Midlothian Council seems to have taken action, and I welcome that.

For far too long in Scotland, public and, sometimes, voluntary bodies have not accepted the responsibility for failings in the child protection system that they should accept. Although all of us today would rightly criticise what has been happening in Midlothian Council services in recent years and praise the inspectors for how they have raised the issue properly under the new system of joint inspections, we would also welcome the fact that, on this occasion, someone has taken responsibility and resigned. I believe that others have perhaps done the same in recent weeks.

I hope now to see early action by Midlothian Council to put in place and then execute an action plan that ensures that youngsters across Midlothian are better protected and which enables the community, parents and friends of those youngsters to know that, when they are identified as requiring protection, they are properly looked after.

Miss Goldie: I thank the First Minister for that helpful response. As I said, I realise that he is not directly implicated in the affair. However, when it comes to the care, welfare and development of children, the record of the Labour Party and the Lib-Lab pact is abysmal. As has already been said, we were informed this week that there were 1,000 more exclusions from schools than in the previous year, which is apparently contributing to a rise of almost 20 per cent in the past three years alone. Added to that, in the past school year almost 1 million pupil days were lost to truancy, and nearly one in five pupils plays truant.

Faced with that stark information, why does this former teacher have so little faith in his former colleagues? Is it not about time that he gave more power to head teachers to provide effective school management—something that the Lib-Lab pact and their local government colleagues have shown themselves utterly unable to do?

The First Minister: Unfortunately for the tone of debate, a number of issues are mixed up in that question in connection with the Midlothian Council report this morning, which I will come back to in a second.

First, on the issues that Annabel Goldie raised at the end of her question, the point that I made earlier still stands. I believe that, when the Parliament was first created, her party had a better

policy on school exclusions than my party. It was right to call for us to remove the target. I was determined to do that when I became First Minister, and I did so. However, that being the case, it is wrong to criticise schools or the system—which is in effect what happens when the Conservatives make these comments—for ensuring that the new policy is properly implemented and head teachers execute their responsibilities.

It is precisely because politicians exploit the issue of school exclusions that head teachers and teachers hesitate to make exclusions in the first place. We need to support them. When they make that judgment, we should encourage them to do so and to take effective action, while at the same time giving them every support to improve discipline in schools so that they do not need to make exclusions in future.

On the management of schools, the Executive has ensured that schools throughout Scotland have more devolved school management. We have done so not only by increasing such devolution in the first session of the Parliament, but by increasing it even further in this session, and by identifying those authorities that have not pursued devolved school management as effectively and energetically as they should and insisting that they do so. In addition, we have ensured that there is a system of inspection reports on local authorities so that we can check that they are carrying out their duties and responsibilities in relation to devolved school budgets and school management. Annabel Goldie is wrong about both those areas.

Annabel Goldie is also wrong in relation to the Midlothian Council report. In 2003, we instituted the new system of joint inspections precisely because youngsters were being mistreated in some areas of Scotland—some had actually died because of the inability of local departments to look after them properly. Following my election as First Minister, we introduced a new system of joint inspections. We have stood by that policy. We gave authorities three years to get their house in order, and we will now go through every authority with a joint inspection to check that they have done so. Where they have not, we expect action to be taken. Such youngsters, probably more than any others, deserve to be protected properly by the state at a local and a national level. We should leave no stone unturned in ensuring that the adults who are responsible for them—whether in their homes, in local authorities or in other agencies—work together to ensure that we get it right for every child. That is an absolute duty on and responsibility of 21st century government. As long as I am standing here, we will ensure that it happens.

Miss Goldie: Let us return to the environment of our schools. The clear message I am getting is that good, competent head teachers are hamstrung by state diktat from getting on with the jobs that their professional qualifications and experience equip them to do. The First Minister said that the Lib-Lab pact has improved devolved school management. How does the abolition of school boards do that?

On school discipline, my party previously revealed that there is an attack on a member of staff in a school every 12 minutes. What did the Lib-Lab pact do to rectify that problem? Did it give heads more power over exclusions? No—nothing as sensible as that; it stopped publishing the figures, and no wonder. The response to a recent Conservative freedom of information request—not a Conservative propaganda initiative—showed that physical violence in schools was up by 25 per cent in the past year alone. Will the First Minister start publishing those statistics again and stop hiding from Scotland's parents the true scale of violence in Scotland's schools?

The First Minister: I repeat some of the points that I made earlier. In this instance, the Conservative research department has done Lord James Douglas-Hamilton a great disservice by putting out those figures in his name. The figures are a gross distortion of the position. They have been taken from local authorities throughout Scotland on the basis of inaccurate and, at times, very different interpretations of information. They include, as I said earlier, figures on special schools, which have not been included in the past. It is brave of teachers to identify those incidents, but we all know that some youngsters, for all kinds of reasons—sometimes reasons that are purely physical due to the nature of their bodies—gesture and act in ways that have an impact on the adult standing or sitting next to them. There is no intention whatever on the part of a severely disabled youngster to be in that situation. Those figures are a gross distortion of the truth.

The head teacher whom I met on Monday at Stirling high school did not talk about the school board that the school used to have years ago. He was looking forward to the new building that his school will have next year. He was inspired by the school's committee of youngsters, which is helping to ensure that the school is a cleaner, better place for the pupils who come next. I was inspired by the head boy and the head girl, who showed a real dedication to duty and the sort of leadership that youngsters are now showing in our schools that helps to deal with school discipline and makes it sustainable. The Conservatives and the nationalists should occasionally praise such practices and improvements in our schools, rather than running down the teachers and the pupils

who are doing so much to make Scotland a better place.

The Presiding Officer (Mr George Reid): There are two brief supplementaries.

Irene Oldfather (Cunninghame South) (Lab): The First Minister will be aware of the 420 job losses in my constituency announced by Simclar (Ayrshire) Ltd on Monday. Will he join me in condemning the shoddy way in which the workforce was informed of the job losses? Some of them received texts. Will he undertake to investigate whether the company's actions breach the European worker information and consultation directive? Is he further aware that the company has indicated that it will look to the Department for Trade and Industry to make minimum statutory redundancy payments, although suggestions of asset stripping need to be investigated? Finally, will he agree to meet me urgently to discuss the resources that could be levered into the area to help us meet the substantial challenge that we will face in North Ayrshire to absorb those job losses?

The First Minister: I should not comment too much in advance of the various discussions, some of which Irene Oldfather mentioned. However, it appears to be the case that the company has not acted properly in carrying out its responsibilities. That is very unfortunate. Of course ministers will be willing to meet Irene Oldfather to discuss what further action is required.

On the key point of support for the area, we are conscious that we have made North Ayrshire a priority in our national regeneration strategy. Additional resources are already promised for the area and we are willing to discuss those further with the local member in due course.

Gordon Jackson (Glasgow Govan) (Lab): I am sure that the First Minister appreciates the understandable concern of Muslim communities throughout Scotland, including in my Govan constituency, that has been caused by media reports that a significant number of Muslim members of our armed forces have been issued with safety information following recent arrests.

I know that the First Minister will meet imams later today. Will he please discuss with them those concerns and take the opportunity to reaffirm both to them and to us that we remain in Scotland an inclusive and tolerant nation and that all of us in the chamber are horrified by those threats?

The First Minister: Gordon Jackson makes a serious point on behalf of his constituents—I am sure that other members would wish to make the same point on behalf of their constituents throughout Scotland. By coincidence, I am indeed meeting the imams this afternoon at Bute House. I hope in the course of that discussion to give them an opportunity to raise community concerns with

me. The meeting will also be an opportunity for me to reaffirm to them that we want an inclusive Scotland where extremists on all sides and racial discrimination of any kind will not be tolerated and where we work together to ensure that youngsters from whatever background feel part of our society and included in the public institutions of our country as well as in our local communities. I am sure that the imams will want to work with me and others to ensure that we can continue to deliver that in a modern, contemporary and inclusive Scotland.

Catholic Church (Adoption)

3. Mike Rumbles (West Aberdeenshire and Kincardine) (LD): To ask the First Minister what recent discussions the Scottish Executive has had with representatives of the Catholic Church regarding adoption in Scotland. (S2F-2699)

The First Minister (Mr Jack McConnell): Scottish ministers and Scottish Executive officials had a number of exchanges with representatives of the Catholic Church and of Catholic-origin adoption agencies before, during and after the passage of the Adoption and Children (Scotland) Act 2007. We have maintained that dialogue over recent days.

Mike Rumbles: At any time during those discussions, has the Scottish Executive given an undertaking or come to an understanding with representatives of the church that exemptions to the Westminster legislation on equality would be made for its two adoption agencies in Scotland?

The First Minister: It is important to go back to the debate that took place on the issue in the chamber. It was a very passionate debate in which there were strong views on all sides. The minister who spoke for the Executive, Robert Brown, stated clearly that day that equalities legislation was United Kingdom legislation and that agencies will be required to comply with it and regulations that are made under it. No one who took part in the debate in the chamber that day was under any illusion about that.

It has become clear over recent weeks that there was concern about the impending decision of the UK Government on how it would implement that legislation. I hope that I reflected what I perceived to be the majority view of this Parliament when I spoke and made representations to the Prime Minister last weekend. I asked him to take on board the Scottish perspective in the final decisions that were reached this week. I believe that the decisions that have been announced are, at least, a step forward. We will continue to discuss with the agencies how best to implement them.

If the Presiding Officer will allow me to do so, I would like to take this opportunity to make one point. In 1991, I adopted two kids. That was the best thing that I ever did in my life. In every decision that we make about this subject, we should ensure that the interests of the kids who could be adopted or who have been adopted come first and we should never use the issue of adoption or the youngsters who could be affected as an excuse for political hypocrisy or point scoring. I hope that everyone in the chamber will remember that in the weeks and months ahead.

Road Safety

4. Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): To ask the First Minister what additional measures the Scottish Executive considers should be taken to improve road safety, in light of recent fatalities in road accidents. (S2F-2689)

The First Minister (Mr Jack McConnell): I would like first to offer my sincere condolences to the families and friends of those who lost their lives or were injured in the tragedies of last weekend and in recent days and weeks. I am sure that Fergus Ewing and others join me in doing so.

There have been many road improvements and safety education programmes over recent years, but Transport Scotland's forthcoming road safety plan, scheduled for publication in April 2007, will further improve road safety on the trunk road network through a safety engineering programme that will employ innovation and apply best available practice.

Fergus Ewing: I entirely endorse the First Minister's sentiments.

Fourteen lives were lost on Scotland's roads last weekend alone. Does the First Minister agree that there should be a national debate about the measures that we can take to improve road safety and that, although prime responsibility must always rest with the driver, education—particularly of our young people, given the disproportionate number of young people dying in these accidents—is key? Does he agree that one suggestion, which might help in the long term to make a significant contribution to tackling the scourge of these deaths, would be to give 16 and 17-year-olds the option to study the highway code—and, perhaps even take the theoretical part of the driving test? That would enable them to equip themselves with the knowledge of road safety that they will need in later life?

The First Minister: I thank Fergus Ewing for the constructive nature of his question. I agree that, ultimately, responsibility for safe driving rests with the individual driver and that it is absolutely essential that people who drive on our roads take

seriously the responsibility that they have for others.

There is a particular issue in relation to young drivers and I suspect that, although we might be irritated by the behaviour of some young drivers in our urban areas, there is a further specific issue in relation to road safety in our rural areas, given the journeys that some young people have to undertake in parts of Scotland. I know that Fergus Ewing will have had experience of that, just as I have.

There is a case for our thinking about how we introduce the issue of road safety to young people, whether in or outwith our schools. I would be happy to consider ideas that members have for improving the way in which we do that.

Autistic Spectrum Disorder (Teachers)

5. Cathie Craigie (Cumbernauld and Kilsyth) (Lab): To ask the First Minister what action is being taken to ensure that teachers are fully equipped to support children with autistic spectrum disorder. (S2F-2691)

The First Minister (Mr Jack McConnell): Through initial teacher education and continuous professional development we are improving teachers' skills so that they can support children

Cathie Craigie: Does the First Minister agree that, given the increasing number of children who are being diagnosed with autism, teachers need to be supported, resourced and trained if we are to give young people the proper start in life and the educational opportunities that they need? Does he agree that the quality of service that is being offered at St Lucy's primary school in Cumbernauld is of a superb standard that should be encouraged across other schools and local authority areas, which could learn from the best practice that is on display in St Lucy's? Finally—

The Presiding Officer: I am sorry, but we are very tight for time. Could I—

Cathie Craigie: Finally, will the First Minister visit the school to see the good work that is being done there?

The First Minister: I cannot promise to visit the school, although I would be happy to consider any invitation that is made. However, I would like to praise the work of St Lucy's primary school, which Cathie Craigie has mentioned to me in the past. I am aware that it received a positive inspection report. The teachers at that school and, indeed, the parents do a terrific job for the youngsters. I am sure that, across Scotland, special units in mainstream schools, those who teach in our classrooms and special schools can all learn from one another to ensure that we improve education for youngsters.

Crichton Campus

6. Alex Fergusson (Galloway and Upper Nithsdale) (Con): To ask the First Minister how withdrawal of the University of Glasgow from the Crichton campus would affect the Scottish Executive's policies on access to lifelong learning. (S2F-2690)

The First Minister (Mr Jack McConnell): The Crichton campus is important for Dumfries and south-west Scotland. I believe that the overall level of provision at the Crichton campus should be at least maintained, if not improved. Working with the Crichton partners, the Scottish Further and Higher Education Funding Council is doing a crucial job in developing a strategy that will both enable that to happen and support a secure future for the campus involving a range of institutions. It has my full support in doing so.

Alex Fergusson: I assure the First Minister that members of all parties will be encouraged by those words. However, is he aware that, during questions on enterprise, lifelong learning and transport on 19 January 2006, I asked the Deputy First Minister whether he accepted that, unless the Crichton campus received the capital funding that it required at that time, the partners might be forced to abandon the project? The Deputy First Minister replied:

"Let me make it clear that I would strongly resist any hint of the abandonment that Alex Fergusson described and would do whatever I could to prevent that."—[*Official Report*, 19 January 2006; c 22575.]

In the current, urgent circumstances, does the First Minister think it is acceptable that the invitation to enter urgent discussions that Dumfries and Galloway Council issued on 23 January has not received a substantive response? Will he undertake today to ensure that he or his deputy—or preferably both—come to Dumfries to meet all the parties involved and ensure that the University of Glasgow's presence continues in the way that the First Minister's predecessor, Donald Dewar, so robustly supported?

The First Minister: It would be wrong of me to comment on correspondence without prior notice. Obviously, I would be happy to do so if I saw it.

I want members of all parties to be aware that the Executive supports the Crichton campus and that the Deputy First Minister and I both wholeheartedly support not just the maintenance of the campus but its improvement and development. We also support the Scottish funding council's work to make sure that the right institutions are using the campus for the right purposes. That is why it is working not just with the University of Glasgow but with the University of Paisley and others to make sure that the availability of courses at the Crichton campus is right for the years

ahead. The funding council has our full support in ensuring that the best possible range of courses and access for local people of all ages are maintained and improved.

The Presiding Officer: I am grateful to the First Minister and members for continuing during the small disturbance in the gallery earlier. I will have a report from security this afternoon.

12:33

Meeting suspended until 14:15.

14:15

On resuming—

Question Time

SCOTTISH EXECUTIVE

Health and Community Care

The Presiding Officer (Mr George Reid): Question 1 has been withdrawn.

Accident and Emergency Units (Lanarkshire)

2. Alex Neil (Central Scotland) (SNP): To ask the Scottish Executive whether it is satisfied that there is sufficient accident and emergency unit capacity in Lanarkshire. (S2O-11813)

The Deputy Minister for Health and Community Care (Lewis Macdonald): We are satisfied that A and E capacity in Lanarkshire is sufficient at present, but we believe that fundamental changes are needed in order to provide the type and level of service that will be required in future. Those changes will include the streaming of emergency and planned care, the creation of five new community casualty units and the expansion of specialist emergency teams and physical capacity for A and E services at Wishaw and Hairmyres.

Alex Neil: I draw the minister's attention to the fact that, over the past three months, Hairmyres and Wishaw accident and emergency units have regularly, usually at weekends, had to refer people to another accident and emergency unit because they have not had sufficient capacity and have been unable to cope. In the light of that, is not it lunacy to close Monklands A and E unit when we urgently require to retain capacity at Monklands?

Lewis Macdonald: The very fact that there is pressure on existing services demonstrates beyond any question the need for modernisation and change in the provision of A and E services. That is why expanding the services at Wishaw and Hairmyres will deliver benefits for patients throughout Lanarkshire; it is why moving two thirds of all the cases seen at all three hospital A and E units out of A and E and into community casualty units will bring benefits to all patients; and it is why the development of the excellent new hospital at Larbert, which will serve part of the Lanarkshire population, will bring benefits right across the area.

Cathie Craigie (Cumbernauld and Kilsyth) (Lab): Will the minister give an assurance that my constituents in Cumbernauld and Kilsyth will be able to access accident and emergency services in Glasgow and at the new hospital at Larbert

when it is opened? Will he give an assurance that he will continue to put pressure on NHS Lanarkshire to hasten the development of the minor injuries unit at Cumbernauld health centre?

Lewis Macdonald: Indeed I will. I offer a clear reassurance to all members that the new provision of community casualty units and the necessary upgrading and expansion of the A and E units at Wishaw and Hairmyres will take place before there are any changes to A and E provision at Monklands.

In response to Cathie Craigie's specific point about access to Larbert hospital, she will be pleased to note that the board of NHS Lanarkshire has approved a board paper in the past few days that explains that in future, emergency in-patient services will be delivered in Lanarkshire for Lanarkshire patients. For the convenience of patients in Cumbernauld and Kilsyth, emergency services will be provided at the new hospital in Larbert, which will provide a high quality of care close to Cathie Craigie's constituents.

NHS Lanarkshire (Transport Impact Assessment)

3. Margaret Mitchell (Central Scotland) (Con): To ask the Scottish Executive whether NHS Lanarkshire has carried out the transport impact assessment that it stated it would undertake after the decision was taken to close Monklands hospital's accident and emergency department and, if so, what the results were of the assessment. (S2O-11832)

The Deputy Minister for Health and Community Care (Lewis Macdonald): I understand that NHS Lanarkshire is in discussions with its partners in the west of Scotland transport partnership and that it will develop its transport impact assessment in the context of those discussions as part of its development of the business case for future hospital services over the next three years.

Margaret Mitchell: Does the minister share my concern that that important study, which includes the impact of hospital development on roads, junctions and car parking and which was required as part of the business case to support the board's decision to close Monklands A and E unit, has not been completed to date? Does he agree that, in view of the pressure on Hairmyres and Wishaw A and E over the festive period, which resulted in ambulances and patients being redirected to Monklands, it is time for the Minister for Health and Community Care to act decisively, as he did in the case of NHS Argyll and Clyde, by reviewing the membership of the board of NHS Lanarkshire and ensuring that the new membership listens to Lanarkshire people, is sympathetic to their

justifiable concerns and their opposition to reconfiguration and acts accordingly?

Lewis Macdonald: No—it is time that Opposition parties got behind the proposals for better health services for the people of Lanarkshire. If they did that, they would gain credit. The proposals are progressing on the basis that they will provide a better quality of service for serious emergency cases and for cases of lesser urgency. Streaming emergency care and planned care will bring benefits to all. If Margaret Mitchell had listened to my first answer, she would understand that the development of the business case for the improved hospital services, and the transport impact assessment that is part of that, will take place in the next three years as proposed and agreed so that, when the configuration of hospital services in Lanarkshire changes, the current transport situation will be taken into account and the best possible provision will be made.

Motor Neurone Disease Clinical Specialists

4. Alasdair Morgan (South of Scotland) (SNP): To ask the Scottish Executive what financial contribution national health service boards are making towards the funding of motor neurone disease clinical specialists. (S2O-11810)

The Deputy Minister for Health and Community Care (Lewis Macdonald): That is a matter for individual boards, but we encourage them to work with the Scottish Motor Neurone Disease Association to ensure that the needs of those in their area with the condition are met.

Alasdair Morgan: Given that the work that the specialists do dovetails well with NHS strategy, does the minister concede that a real case can be made for establishing a permanent, rather than a project-based, funding contribution from the Executive to assist the motor neurone disease team?

Lewis Macdonald: The Scottish Motor Neurone Disease Association, which acts and works on behalf of patients, has an opportunity to make that case. My officials have worked with the association to encourage it to do so and to make the case for the development of a managed clinical network, which would deliver many of the benefits that I am sure Mr Morgan is keen to have. Given the numbers that are involved, a clear case can be made for doing that nationally, rather than locally or regionally, but I look to the association to work up an application for the national services advisory group to consider in due course.

Consultant Contract

5. Shona Robison (Dundee East) (SNP): To ask the Scottish Executive what action it is taking

as a result of the response by the chief executive of NHS Scotland on 17 January 2007 to the Audit Committee's report "Implementing the NHS consultant contract in Scotland". (S2O-11817)

The Minister for Health and Community Care (Mr Andy Kerr): It is important to recognise the potential that the consultant contract gives NHS Scotland to remunerate fairly that important group of staff and reward them appropriately for their service to the national health service, and to act as a driver for change and improvement in services to patients. That was acknowledged in the Audit Committee's report on the contract. The Executive is committed to turning the potential benefits that are associated with the new contract into actual benefits for patients, staff and the NHS. We have always maintained that realising the benefits fully will take time and we already have in place a process for planning and delivering the changes locally. We have recently emphasised to boards that their plans should demonstrate increased patient benefits and increased consultant-related productivity from service redesign.

Shona Robison: Is the minister aware that, in Dr Kevin Woods's response to the Audit Committee's report, he agrees with the committee conclusion that the consultant contract

"is not being used to best effect"

and states that, in the coming year, boards are being asked to concentrate on developing

"clear plans for achieving the 1% target increase in consultant related productivity"?

Why is it taking so long for work to start on meeting the target and when will the minister be able to confirm what progress has been made towards achieving what must seem to many people a very modest improvement in productivity for a vast investment of resources?

Mr Kerr: I must say that that question is somewhat naive. The new contract for consultants is the first such change in more than 50 years and we have never said that the benefits would arise overnight. Before the changes, we heard from members, including Shona Robison, about the recruitment and retention problems in the NHS. The new contract has secured recruitment and retained much-valued staff in our health service and we now have local job planning.

When we talk about productivity, we should mention the increased number of angioplasties and hip, knee and cataract operations and the record reductions in waiting times, which are now the lowest ever in the history of the national health service. There are examples throughout the service of consultants' participation in the re-engineering and redesign process, which is delivering for patients. However, in return, every board in Scotland is working locally to ensure that

the job plans, which are a negotiated part of the contract and which will deliver for patients, are in place. The historic low waiting times in our NHS are part of the significant delivery that is coming about through the contract.

Mr Duncan McNeil (Greenock and Inverclyde) (Lab): Does the minister agree that, notwithstanding the long-standing problems with getting the best value out of the contract, it would be unacceptable to pay our consultants less than they would be paid down south, as the consequence of that would be that we would lose further precious clinical staff?

Mr Kerr: We need to ensure that pay rates in Scotland for such a highly specialised and—to acknowledge what Duncan McNeil says—highly mobile workforce are consistent with those throughout the United Kingdom. Nonetheless, I want our pound of flesh from the consultants, who have better terms and conditions as a result of the new contract. I suggest that the productivity that we are achieving and that we will achieve tomorrow and further in the future will ensure that patients get a better service from our national health service.

Dave Petrie (Highlands and Islands) (Con): How will implementing the contract affect the critical situation in the Oban and Fort William hospitals?

Mr Kerr: The combination of improved recruitment and retention, which I mentioned, the new training regime that modernising medical careers has introduced in Scotland, the focus of the royal colleges on reducing specialisation and increasing generalisation in health care and our ability to attract internationally qualified graduates into medicine in Scotland and to grow the workforce will enable our community hospitals strategy, which the Deputy Minister for Health and Community Care launched, to pay back in the recruitment and retention of much-valued skills in Scotland, thereby contributing to the success and turnaround of the hospitals to which Dave Petrie refers.

National Health Service (Targets)

6. Michael McMahon (Hamilton North and Bellshill) (Lab): To ask the Scottish Executive whether it has considered the impact of abolishing all targets for the NHS in Scotland. (S2O-11876)

The Minister for Health and Community Care (Mr Andy Kerr): The Executive has not considered the impact of abolishing targets for the national health service in Scotland as there are no plans to do so.

Michael McMahon: I thank the minister, who announced investment of £10 billion in the NHS in Scotland today, for that assurance. Does he agree

that we must continue to set rigorous targets that are aimed at providing the best services for all NHS patients? Does he agree that a return to the system that obtained under the previous Tory Government, in which there were no targets, would lead us back to waiting times exceeding 18 months?

Mr Kerr: Absolutely. I will relate that question to the previous one. Because we are investing £10.3 billion in our health service, in the skills of the workforce and in what we pay them, the taxpayer has every right to set targets for the national health service's performance and productivity. I do not want to return to the long waiting times to which Michael McMahon refers or to the two-tier health system that we had under the Tories. Scrapping the targets would take us back to those longer waiting times which, I recall, were as long as three years. We must understand that the targets that we have set in the national health service not only drive a good bargain for patients but drive sustainable change to create a better health service for the future.

Mrs Nanette Milne (North East Scotland) (Con): The minister already knows that I disagree with his top-down, target-driven approach to the NHS, which is driving down morale among the clinicians, who are trying hard to look after the patients who are under their care. Why will he not pay attention to the chairman of the Scottish council of the British Medical Association, Dr Peter Terry, who called this week for the Executive to scrap its waiting time targets, as there are serious concerns within the medical profession that patient care throughout the NHS is being compromised because doctors are forced to achieve the minister's political objectives rather than meet patient need? Does he agree that it is time to set the health professionals free to deliver the health service that Scotland needs, not the health service that he wants to control?

Mr Kerr: Is that free as in the way in which we were free under the Tories to have three-year waiting lists for treatment? That is not acceptable to my community or any other community in Scotland.

It is interesting how we take advice from the BMA one day but not the next, on other matters. If Peter Terry or any other clinician can give me hard evidence that our targets are driving clinical judgments inappropriately, I will be happy to examine the case. The matter has been raised in the Parliament before but, to date, I have received no correspondence on it and no evidence that targets that have been set for patients in the NHS have undermined local clinical judgment. A cancer clinician might argue that the outcome for a patient may not be affected by our waiting time targets and that the patient could, in fact, wait longer.

However, I want to ensure that the patient and their family experience reduced stress and concern through their wait for a diagnosis. I think that that is right, and Nanette Milne, too, should think that it is right.

Wet Age-related Macular Degeneration

7. Mr Stewart Maxwell (West of Scotland) (SNP): To ask the Scottish Executive how many people are currently diagnosed as suffering from wet age-related macular degeneration. (S2O-11830)

The Deputy Minister for Health and Community Care (Lewis Macdonald): Work is being done to collect that information by national health service boards and as part of the Scottish medicines consortium's forward look financial planning programme. Early modelling has estimated that 16,000 patients in Scotland have wet age-related macular degeneration.

Mr Maxwell: In correspondence that I had with the Greater Glasgow and Clyde NHS Board on behalf of a constituent, the board confirmed that the SMC issued positive guidance on the medicine Macugen in July 2006 and that the board agreed with and supported that guidance in August 2006. However, in its letter, the board also says:

"We have concluded that NHS Greater Glasgow & Clyde is unable to provide a safe, equitable service for 'Macugen' therapy at the present time."

Further correspondence that I received from the board this morning says:

"I understand that the timetable for submission of the business plan remains on schedule and that the position should be clearer by the end of this month."

Given that treatment for the disease is time critical to avoid blindness and given that the SMC approved new drugs as far back as July 2006, will the minister explain why Greater Glasgow and Clyde NHS Board is developing a business plan only now—seven months after the drug's approval? What is the cost of treating people who go blind because of AMD? I imagine that it is much higher than the cost of treating the condition and saving those people's sight.

Lewis Macdonald: I am interested in the correspondence to which Mr Maxwell refers. If he wishes to copy that to me, I will be happy to read it.

Treatment centres in Glasgow have the capacity to deliver the treatment to which the member refers. Of the 16,000 people who have the syndrome, only a small number will benefit from that treatment. Nonetheless, it should be made available. It is a clear directive that health boards should respond to the SMC's judgment. I understand that significant progress has been

made in that direction. If Mr Maxwell wishes to share details of that case with me, I will be happy to consider it further.

Minor Injury and Illness Units (NHS Tayside)

8. Roseanna Cunningham (Perth) (SNP): To ask the Scottish Executive whether it is satisfied that NHS Tayside made the correct decision in respect of the number and location of minor injury and illness units in its area. (S2O-11854)

The Minister for Health and Community Care (Mr Andy Kerr): In the framework of national priorities, it is for NHS Tayside to assess local service needs and to provide appropriate services to meet those needs. That applies to minor injury and illness facilities in the same way as it does to other services.

I understand that, in anticipation of the out-of-hours opt-out arrangements, NHS Tayside undertook an extensive public involvement exercise to define the new model of care. I expect national health service boards all over Scotland to ensure that that model is safe, effective and consistent with local needs.

Roseanna Cunningham: For obvious reasons, my interest lies in the provision in Perthshire, which has MIUs in Blairgowrie, Pitlochry and Crieff. Auchterarder, which has a community hospital, is denied such a unit, despite having a growing population. Is the minister aware that that has resulted in patients in Auchterarder and its surrounding areas putting increased pressure on the accident and emergency facilities at Perth royal infirmary and probably also at Stirling? Does he agree that the success of MIUs depends on their being available to natural communities? Will he consider whether the network should be extended?

Mr Kerr: I considered the issues carefully when the question was lodged. First, I expect all boards—including NHS Tayside—to keep all their services under review. If the pressures that the member describes create difficulty for patient care, the board will need to examine that. Information is also available to me about out-of-hours services in Crieff, which is some 7 miles away, and about the emergency centre in Perth that the member mentioned, which is 12 miles away.

We need to ensure that all communities have the best possible services that are sustainable, well managed, well delivered and safe for those communities. We need to understand the proximity of other facilities in our NHS to ensure that patient care is appropriate.

I appreciate the member's point about pressures elsewhere in the system, which I want NHS Tayside to monitor closely. I want NHS boards always to review the provision of services, so that

we can allow change to occur as appropriate to community needs.

The Presiding Officer: Question 9 is from Duncan McNeil.

Midwife-led Maternity Units

9. Mr Duncan McNeil (Greenock and Inverclyde) (Lab): Sorry, you caught me sleeping there—not for the first time. I blame Frank McAveety. My apologies, Presiding Officer.

To ask the Scottish Executive what role it considers that midwife-led units will play in maternity services in the future. (S2O-11877)

The Deputy Minister for Health and Community Care (Lewis Macdonald): Community maternity units have been endorsed as part of a network of maternity care in the overview report of the expert group on acute maternity services. We expect such units to continue to play a key role in delivering maternity services in Scotland.

Mr McNeil: If midwife-led units have a role to play, is it not essential that work is done to reassure sceptical expectant mothers that such units are perfectly safe and, where appropriate, offer the best care? How will the Executive work to boost public confidence in the units, which is essential to their long-term viability?

Lewis Macdonald: The Executive is happy to work both nationally and in partnership with health boards locally to ensure that people understand that the quality of care provided throughout our network of maternity services is second to none.

Environment and Rural Development

Climate Change (Hydrogen)

1. Christine May (Central Fife) (Lab): To ask the Scottish Executive how CO₂ emissions can be reduced and climate change targets met by the use of hydrogen. (S2O-11873)

The Minister for Environment and Rural Development (Ross Finnie): Hydrogen is a carrier of energy and will reduce carbon dioxide emissions only if produced from renewable energy. That green hydrogen will allow for excess amounts of renewable energy to be captured, stored as hydrogen and used at a later stage. The technology is still largely embryonic, and the Executive is encouraging the growth of the sector through the renewable hydrogen and fuel cell support scheme.

Christine May: Is the minister aware of the recent award of £2.7 million to the hydrogen office project in Methil to demonstrate the potential of hydrogen derived from wind energy to reduce CO₂

emissions and help businesses to meet climate change targets? How does the minister intend to let wider industry and business interests know about the potential of hydrogen? Does he believe that all businesses should be encouraged to examine that very real potential? Although I have not yet invited him to visit the hydrogen office project, he is more than welcome any time he is in Fife.

Ross Finnie: I am always grateful to Christine May for so willingly filling my diary with such regularity during environment questions.

On a serious note, the hydrogen office project is very important. That is recognised by the fact that Scottish Enterprise part-funded it. The member is right: it is an important initial pilot. On promoting it more widely, as I indicated in my earlier response, the Executive launched the £1.5 million renewable energy hydrogen and fuel-cell support scheme in December, applications for which closed on 26 January. Assessing those applications and making awards will form part of our attempt to expand the use of hydrogen and to try to get other businesses to take the same interest as has been shown by those who have promoted the hydrogen office project.

Alex Johnstone (North East Scotland) (Con): In addressing the fledgling hydrogen economy that we all hope will exist, does the minister envisage any difference in treatment between hydrogen created through renewable means and hydrogen generated as a by-product of hydrocarbon carbon capture?

Ross Finnie: The only promotion scheme we have is that to which I have just referred. We would like that project to get rooted and to see how it develops. We recognise the member's point. There are two aspects to the issue, both of which can play an equally valuable role in developing our interest in hydrogen. The issue is at an embryonic stage and we are keeping it under review. My colleague, the Minister for Enterprise and Lifelong Learning, will be taking it forward.

Flood Defences

2. Mr Mark Ruskell (Mid Scotland and Fife) (Green): To ask the Scottish Executive what steps it is taking to review the approach to minimising flooding risks to communities, in light of recent incidents highlighting the failure of hard engineering flood defence schemes. (S2O-11894)

The Deputy Minister for Environment and Rural Development (Sarah Boyack): The flooding issues advisory committee is providing advice to the Executive on the implementation of a more sustainable approach to flood risk management. We plan to launch a public consultation on the issue later this month.

Mr Ruskell: The minister will be aware of the manifest failure of hard flood defences at Milnathort. Will she commit to reviewing what went wrong at Milnathort, focusing not just on those hard flood defences, but on the approach that was taken by Perth and Kinross Council to sustainable flood management? In particular, will she focus on whether part of the problem that we saw at Milnathort recently was the result of planning decisions that may have led to flood waters being pushed away from new housing—built on flood plains—simply for it to appear in another part of the catchment, causing devastation?

Sarah Boyack: We need to be able to speak authoritatively on the exact cause of that incident, which is something that I am very concerned about. My predecessor met George Reid, the constituency member for the area, before Christmas. I have spoken to George Reid since then, and I know that he has been trying to keep local colleagues up to speed with the issue. The key thing is that Perth and Kinross Council has produced a preliminary report on the incident and it will now commission a more detailed report, on which we will all need to reflect. There may be lessons to be learned throughout Scotland, and there will definitely be lessons for residents and businesses in Perth and Kinross.

I recognise the wider points that Mark Ruskell makes about sustainable flood risk management. We want a consultation on the issue, gathering experience from throughout Scotland, as the increased incidence of flooding is leading to problems all around Scotland. I am very much looking forward to seeing the results of the Executive's World Wide Fund for Nature scoping study, which is compiling and examining evidence relating to the impact of land-use techniques on flood risk management. The study aims to see the implications of the current situation in Scotland and to look at land uses more generally.

There is a specific issue in Milnathort that needs to be addressed, but there are wider lessons to be learned and we need to think much more about sustainable flood management principles.

Malcolm Chisholm (Edinburgh North and Leith) (Lab): Does the deputy minister accept that an important factor in minimising flood risk for communities is timely decision making? Does she accept that it is high time that the Executive ruled on the City of Edinburgh Council's flood prevention scheme, which received planning permission in 2004? Although I recognise that the deputy minister cannot be involved in the decision, as it affects her constituency, will she urge the Minister for Environment and Rural Development to make a decision quickly? Will she also ensure that he puts the interests of my constituents in

Stockbridge and Bonnington before the self-serving interests of the Scottish Rugby Union?

Sarah Boyack: Malcolm Chisholm is absolutely right about my long-term interest in the issue. Having seen the impact of a flood on constituents' businesses and houses, I assure him that it is a matter of great concern to the Executive that it has taken so long for the issue to be resolved. I acknowledge the point that he makes about timescales. It will be my colleague, Ross Finnie, who decides the issue, because of my previous interest. He has reassured me that he will complete his consideration of the matter as soon as he can.

The issue underlines the need for us to review how we deal with flood management. Malcolm Chisholm is absolutely right to say that it is a long time since the flood happened and a long time since the planning application was approved. We need to streamline the process. It is not about having another consultation; it is about looking at our legislative processes, which cut across getting swift, streamlined decisions and robust flood management systems in place. That is something that I am keen to pursue. The process was started with Malcolm Chisholm's work on the Planning etc (Scotland) Bill, and it must now be brought together with our flood management principles. I am keen to pursue that general issue urgently.

Mr John Swinney (North Tayside) (SNP): Is the minister aware of the study that is being undertaken as a joint venture between Network Rail and Perth and Kinross Council, in my constituency, to examine how to deal with flooding in the Dalguise area, where homes and the main rail line between Perth and Inverness are severely affected by the implications of flooding? Given her response to Mr Ruskell's earlier question about the need to examine these issues in a more comprehensive way, is she able to say what further initiatives could be deployed by the Executive to ensure that a wider flood prevention study is undertaken in the whole of the river Tay catchment area? Flooding is now a serious issue in the western part of my constituency.

Sarah Boyack: There is obviously the work that will be carried out by the local council, which is taking the lead in such matters. It is for the Executive ministers to work with local councils, once they have worked their schemes up, to find appropriate funding mechanisms. I know that, in his previous conversations with the minister, John Swinney has raised some practical thoughts as to how we might expedite some of those procedures and consider the funding issues. If John Swinney was prepared to put some of those thoughts down in writing, I would be keen to take them forward as I think that they are constructive ideas.

As regards the wider issue of flood management, we hope that the flooding issues advisory committee will be able to help us explore how to use land management techniques more generally to reduce the risk of flooding to communities. If partnership work is being carried out by the local council and Network Rail, I would be keen for it to be passed into the process. If there are good lessons to be learned, I want to ensure that we do not miss out on them.

Murdo Fraser (Mid Scotland and Fife) (Con):

It is the belief of many living in areas—such as Perthshire—that have been affected by flooding in recent weeks that the discontinuation of the traditional practice of gravel extraction from riverbeds has exacerbated the problem by raising water levels. Given that the practice has effectively been outlawed by the Scottish Environment Protection Agency, will the minister instruct the agency to reconsider the issue and review the impact that river dredging would have on river levels and on the propensity to flood?

Sarah Boyack: I own up to not being an expert on that, but I would be more than happy to ensure that that question is included among the other issues that we are considering, such as using reservoir storage and natural flood attenuation, in examining the implications of different techniques. If Murdo Fraser wants to put a note to me, I will ensure that it goes to the flooding issues advisory committee so that that issue is taken on board.

Chernobyl Incident (Restricted Areas)

3. Linda Fabiani (Central Scotland) (SNP): To ask the Scottish Executive what the extent and current status are of the restricted areas arising from the Chernobyl incident. (S2O-11850)

The Minister for Environment and Rural Development (Ross Finnie): Seven farms in Scotland, comprising approximately 1,030 hectares per farm, are still subject to restrictions as a result of the Chernobyl incident. Sheep from those farms are required by the Food Protection (Emergency Prohibitions) (Radioactivity in Sheep) Order 1991, as amended, to be monitored for radioactivity prior to being moved off farm.

Linda Fabiani: Does the minister agree that, when more than two decades after a nuclear incident as far away as Chernobyl we still have restricted areas across Scotland, including within the area that I represent, and when the Food Standards Agency and the Scottish Environment Protection Agency are still carrying out such monitoring, it would be absolute folly to allow the siting of any further nuclear power stations in Scotland?

Ross Finnie: The one thing that I can safely say is that it would be absolute folly to build anywhere, at any place and at any time, a nuclear or any power station that was as badly designed as the Chernobyl station. That is the one thing on which we can all agree. It is not for me to enter into the debate, although I have my private views about the undesirability of nuclear power. [*Interruption.*] What did I say? I said only that I had my private views on the undesirability of nuclear power.

Food Miles (Young's of Annan)

4. Ms Rosemary Byrne (South of Scotland) (Sol): To ask the Scottish Executive what contribution Scotland is making to reducing its carbon footprint in respect of food miles, in light of the decision by Young's of Annan to send prawns to Thailand for processing. (S2O-11825)

The Minister for Environment and Rural Development (Ross Finnie): The Scottish Executive is seeking to reduce Scotland's carbon footprint in respect of food miles by working with the industry to ensure that more Scottish food is processed in Scotland, by encouraging localised food distribution systems, and by supporting local marketing schemes. For example, we have provided more than £60 million to support investments that add value to Scottish primary produce within Scotland.

In discussions with producers and retailers, we promote Scottish produce, and therefore we welcome the recent initiatives by Marks and Spencer and Tesco, which are committed to reducing their carbon footprint and labelling food imported by air.

Ms Byrne: As the Carbon Trust has identified that 82 million tonnes of carbon dioxide is generated by the food and catering industry, including a large proportion generated by food miles, and as the Scottish Executive has stated on several occasions that it is committed to playing its part in implementing the Kyoto protocol, can the Executive give an assurance today, ahead of environment week next week, that the situation will never occur again and that we will adhere not only to the Kyoto protocol but to the proximity principle in food processing? Will the minister also meet the workers from Young's of Annan to explain to them the situation that they find themselves in?

Ross Finnie: Obviously, I cannot give an undertaking on how commercial operations function. However, the biggest pressure that we can bring to bear on those who process and sell food is through our power as consumers. It is helpful that there is increasing demand from consumers for the labelling of food that has been subject to excessive air miles. There are calls for such information to be given to consumers, who can then exercise their discretion. If they do so,

that will play a big part in commercial decisions, because if the consumer ain't buying, those who process and sell food will have to change their habits.

Declaration on Climate Change

5. Mr Frank McAveety (Glasgow Shettleston) (Lab): To ask the Scottish Executive how it will monitor the success of the declaration on climate change, signed by all of Scotland's local authorities. (S2O-11874)

The Minister for Environment and Rural Development (Ross Finnie): One of the commitments in Scotland's climate change declaration is for each local authority to publish an annual statement on the monitoring and progress of its climate change response. That will enable the Executive and the public to assess each local authority's performance.

Mr McAveety: I welcome the signing of the declaration and the commitment to tackle climate change. Local authorities are critical to reductions in greenhouse gas emissions in Scotland. Although 10 of Scotland's local authorities have developed carbon management plans with the Carbon Trust, 22 local authorities have not put together a full plan. Will the minister ensure that, in time, all Scotland's local authorities develop carbon management plans?

Ross Finnie: I hope that that will be the case. Our document, "Changing Our Ways: Scotland's Climate Change Programme", was not intended to be exclusively for the Executive. We intended it to be adopted by all of Scotland. It is important that all local authorities sign up to it and that we are all committed to meeting the objectives. I hope that the other authorities will follow the lead of the 12 authorities that have already produced plans.

Recycling (Household Waste)

6. Bristow Muldoon (Livingston) (Lab): To ask the Scottish Executive what progress has been made in improving the recycling of household waste by local authorities. (S2O-11880)

The Minister for Environment and Rural Development (Ross Finnie): Good progress has been made. The latest figures from the Scottish Environment Protection Agency show that, from April 2005 to March 2006, Scotland recycled or composted 24.4 per cent of its biodegradable municipal waste. That compares with just 8 per cent in 2002-03.

Bristow Muldoon: The minister will be aware that West Lothian Council has increased its recycling rate from a low single figure to an expected 30 per cent this year and plans to increase that to 37 per cent with support from the Scottish Executive's strategic waste fund.

That is welcome, but the council has raised two concerns with me. First, it believes that the Scottish recycling figures do not take account of some forms of recycling that our European colleagues include in their figures, including the recycling of items such as building materials and road planings. What can the Executive do to ensure that we compare recycling on a like-for-like basis?

Secondly, and more fundamentally, West Lothian Council believes that it is being held back from making further progress. About three years ago, it submitted plans for a biorecycling plant that would have substantially improved its recycling rate, but the plans were declined by the Executive. The council was encouraged to remain part of a wider Lothian and Borders group that has still not concluded its plan. I encourage the minister to meet representatives of West Lothian Council to discuss the resolution of the problem.

Ross Finnie: On the first point, I am happy to look into whether the statistics that we use are comparable. I will certainly investigate that.

On the phase 2 allocations of the strategic waste fund, I am well aware of Bristow Muldoon's point about West Lothian Council and the wider Lothian and Borders proposals. We have had some difficulties, both at a technical level and in assessing the balance between dealing with waste disposal, dealing with the landfill target, and ensuring that we do not lose sight of a more ambitious recycling target. We have been in an extensive consultation on the matter with the Convention of Scottish Local Authorities and representatives of the Lothian and Borders consortium have been involved in that. We are close to making an announcement on the matter.

I do not wish to have a meeting if it would not be useful, but if the matter continues, I will be happy to do so.

Flooding

7. Richard Lochhead (Moray) (SNP): To ask the Scottish Executive what measures are being taken to reduce the risk of flooding in Moray and across Scotland. (S2O-11836)

The Deputy Minister for Environment and Rural Development (Sarah Boyack): In the first instance it is for the local authority to bring forward flood defence schemes to the Executive. In addition to a scheme it promoted at Lhanbryde, which has been confirmed by the Scottish ministers, Moray Council is also in discussion with the Executive about a further three schemes in Forres, Rothes and Elgin. For our part, we are committed to helping authorities increase protection of communities affected by flooding through investment in flood alleviation measures

and flood defences. The Executive is also pursuing a wide range of initiatives under its national flooding framework to improve and strengthen flood arrangements in Scotland.

Richard Lochhead: I thank the minister for her detailed answer. She might be aware that in Elgin, the proposed biggest flood prevention scheme in Scotland, which will cost more than £95 million, has at long last passed the approval stage at Moray Council and will be passed to her office to go through the next stage of the process. Will she undertake to ensure that the scheme goes through the next stage of the process as soon as possible, given that the people of Elgin have been waiting many years for it to get off the ground?

To what extent will the future consultation process on sustainable flood solutions, to which she referred in a previous answer, influence the timescale for dealing with the applications that are submitted in the next few weeks?

Sarah Boyack: I reassure Mr Lochhead that the Executive will deal with the Elgin proposal as soon as possible.

I would not want our consultation on sustainable flood management to cut across any current Executive consideration of schemes. The purpose of the process is to engage communities, businesses, councils and all other key stakeholders in considering the successes of sustainable flood management that could be developed throughout Scotland. I reassure Mr Lochhead that it would not cut across the work that his council is putting forward to the Executive.

Point of Order

14:57

Stewart Stevenson (Banff and Buchan) (SNP): On a point of order, Presiding Officer. My point relates to what the Minister for Enterprise and Lifelong Learning, Nicol Stephen, said in response to question 1, from Derek Brownlee, at general question time, to which there were supplementaries. Rule 7.2.3 of the standing orders says:

"The Presiding Officer may order a member to stop speaking if ... the member departs from the subject".

There is a clear view in the Parliament that this morning Nicol Stephen, in no sense in any of his remarks on question 1, addressed the subject of the Executive's policies and their impact on economic growth. He was entirely silent on that subject and confined his remarks to the policies and practices of other parties.

You might of course point me to rule 13.7.7 of the standing orders, in the section on oral questions, and to rule 13.7.8, which states:

"A member may ask a supplementary question only on the same subject matter as the original question and shall, in asking the question, do so briefly."

That rule clearly constrains the questioner to stay on the subject, but it is silent in relation to the minister.

For your further information, you will, no doubt, be aware that the headings that precede sections in acts form no part of the legislation—they are merely descriptive—and that the legislation is encompassed wholly within the sections themselves. If that same test is applied to the standing orders of the Parliament, rule 7.2.3, on which I found my comments to you, is a general prescription, which is not constrained by its happening to be in a section described as:

"Calling speakers and content of speeches."

It would apply equally to responses to questions, particularly given that no other rule addresses the issue of answers given by ministers.

I realise that this is a somewhat complex point of order, but it is clear and to the point. I hope that if you are not able to give an immediate response, you are able to give a response that will satisfy the many members of this Parliament who thought that the minister's performance this morning was egregious in the extreme.

The Presiding Officer (Mr George Reid): I will not knock that point of order back. Mr Stevenson raises an interesting point and makes some clever cross-references. However, I had only a short amount of advance notice of the matter and it will

take time to consider. I am not going to make snap judgments. We shall have to examine the veracitude of your terminological exactitude, which is what I propose to do over the next few days. I shall then write to you.

Rights of Relatives to Damages (Mesothelioma) (Scotland) Bill: Stage 1

The Deputy Presiding Officer (Trish Godman): The next item of business is a debate on motion S2M-5360, in the name of Cathy Jamieson, that the Parliament agrees to the general principles of the Rights of Relatives to Damages (Mesothelioma) (Scotland) Bill.

15:01

The Minister for Justice (Cathy Jamieson): Today's short debate comes after many years of campaigning by those most affected by the dreadful effects of mesothelioma. The changes that the legislation brings are absolutely about justice: justice for the individuals and their relatives, who suffer both the immediate effects and the longer-term consequences of the disease.

I record my sincere thanks to the asbestos groups, Des McNulty MSP, Thompsons Solicitors, the various trade unions, the former Deputy Minister for Justice, Hugh Henry, and all those who worked hard to get us to this point today.

I also thank Pauline McNeill and the Justice 1 Committee for their supportive stage 1 report and for their thorough exploration of the issues with witnesses.

As members will be aware, the Justice 2 Committee in the previous session of Parliament was instrumental in the speeding up of settlement of mesothelioma personal injury claims. Those measures were intended to allow more sufferers to have the chance of receiving and benefiting from damages before death, but they have inadvertently served to compound the predicament that arises for mesothelioma sufferers.

We know that mesothelioma is a dreadful disease. It is a rare form of cancer that attacks the inner lining of the internal organs. It is almost always caused by exposure to asbestos and it takes, on average, 20 years to develop. Sufferers often die within just a few months of diagnosis. There is no known cure and victims spend their final months in considerable pain and suffering.

Under the Damages (Scotland) Act 1976, the immediate family of an injured person is prevented from making a claim for their own grief and suffering if the mesothelioma sufferer has already settled their own claim in full prior to death. That presents mesothelioma sufferers, who face certain but not immediate death, with an agonising dilemma: either they pursue their own damages claim at what is already a difficult time for them, or they take the decision not to pursue the claim before they die so that their relatives can claim.

The reality is that around 80 per cent of sufferers choose not to pursue their own claims so that they do not deprive their families of the substantial additional sums that they can claim. That stark choice means that they miss out on any practical support or comforts that compensation might provide before they die. That is an intolerable additional worry for families at a particularly difficult and distressing time.

The situation is unjust, unacceptable and must end. That is why the Executive added the bill to our existing legislative programme. Our ability to get the bill introduced into Parliament 14 weeks after our announcement that we would do so was helped by the very significant amount of work that had already been done by Des McNulty MSP and by the information on compensation that had been provided by Thompsons.

The bill's purpose is straightforward: to address urgently, and exclusively, a problem that is encountered by mesothelioma sufferers. It will allow the immediate family of someone who has suffered from the disease to claim damages for their grief and suffering irrespective of whether the deceased has already recovered full damages or obtained a settlement. Sufferers of this horrible disease need no longer feel prevented from pursuing their own claims.

We know that, sadly, more sufferers will be identified: there may, by 2013, be as many as 2,400 deaths per year across the United Kingdom. Sufferers know their likely life expectancy and that their disease is caused by exposure to asbestos. Under the so-called Fairchild exception, they do not need to meet the normal test of causation in civil actions, so the question how to handle their compensation claim arises immediately they are diagnosed with mesothelioma.

There was unanimity among those who gave oral evidence to the Justice 2 Committee that in the light of the unique nature of mesothelioma and the dilemma sufferers face in relation to damages claims, the bill should be confined to that disease.

It is important to state that the purpose of the bill is not to right any perceived wrong in the long-held principle that relatives' rights are extinguished if the deceased settles their claim in full prior to death. The need for the bill has, however, highlighted that there are areas of the law of damages that should be reviewed. We have therefore asked the Scottish Law Commission to undertake a review of the law of personal injury damages, taking into account underlying practices and procedures. That has been welcomed by the Justice 1 Committee.

The review will consider the position of other personal injury victims and the continuing appropriateness of the exclusion of relatives' rights

in the 1976 act. The Scottish Law Commission intends to report in 2008.

The Justice 1 Committee considers that there might be benefit in initiating a single action in relation to claims for the mesothelioma sufferer and their immediate family. I accept the committee's recommendation that we explore that with the Court of Session, the insurance industry and solicitors. The Executive has already been in contact with the relevant stakeholders to seek their comments on whether raising a single action in these cases is feasible and would be beneficial to all parties.

I am also grateful to the committee for raising the issue of retrospection. I hope that members will agree that we have moved promptly and positively.

Mr Duncan McNeil (Greenock and Inverclyde) (Lab): The minister will be aware that Greenock and Inverclyde, like other areas in Scotland, has a large number of sufferers of asbestos-related disease and that, despite their illnesses, they have fought for justice. I bring a message from those victims—some of whom are here today from Clydebank—that they very much appreciate the gains that they have made and the support that they have received from ministers and all parties in the Parliament. The progress that the Scottish Parliament has made on this issue has made big changes to their lives.

While there are colleagues from Clydebank here today, many victims cannot travel. Will the minister assure me that when she or another minister next visits my constituency, they will take time out to meet the victims who cannot be here today but appreciate the work that the Scottish Parliament has done, listening to their experiences and hopes for the future?

Cathy Jamieson: I thank Duncan McNeil for his comments and for reminding us of the people who have fought for justice on this issue for so long. I have had the opportunity to meet people from a number of the various action groups, including Clydeside Action on Asbestos, and some of the people from the Inverclyde area to whom Duncan McNeil refers and I have no doubt that many of those who will welcome this legislation will still want the opportunity to make representations to me as a minister or to some of my colleagues. I assure Duncan McNeil that I will work with him if there are particular ways that we can make that happen.

I particularly want to refer to the announcement that Johann Lamont made on 13 December: that the legislation will apply to cases raised on or after 20 December 2006. That announcement was warmly and widely welcomed, and we will lodge an amendment to that effect at stage 2. I hope that

members will be encouraged to hear that there is already an increase in the number of claims that sufferers are raising in the Court of Session. That means that sufferers from this terrible disease are already benefiting from this exceptional piece of legislation.

The Justice 1 Committee undertook a thorough, focused piece of work to produce its stage 1 report. It dealt with a difficult issue sensitively and made suggestions on which we have already been able to act. Today, I have given a commitment to act on further suggestions. I hope that today all members will support a short but vital piece of legislation that will bring real benefit to mesothelioma sufferers and their families.

I move,

That the Parliament agrees to the general principles of the Rights of Relatives to Damages (Mesothelioma) (Scotland) Bill.

15:11

Stewart Stevenson (Banff and Buchan) (SNP): I join what I am sure will be a consensual debate, with all members pointing in the same direction, by saying that we support without reservation the bill that is before the Parliament today. We welcome the fact that it has been possible to get to this position.

Before I move on, I would like to add something to what the minister said. The Justice 1 Committee was told that there is no known cause of mesothelioma other than exposure to asbestos. It is important to eliminate even a scintilla of doubt about whether there can be other causes. What we are doing, which is focused on mesothelioma alone, to the exclusion of all other diseases, is founded on the absolute certainty of the causal link between mesothelioma, in either of its two variants, and exposure to asbestos.

There is a saying that is apt in this context: success never wants a father, but failure remains a bastard all its days. I apologise for my language, Presiding Officer. The bill has, quite legitimately, many fathers and mothers. That is very welcome, because civic and political Scotland has joined with the legal profession to promote the legislation that we are debating today.

Is mesothelioma a big problem? The "British Cancer Journal" suggests that there will be 90,000 deaths from the disease between 1968 and 2050, and that two thirds of them will take place during this century. I am sure that that is a United Kingdom figure. The projections are well founded, because they are backed up by a considerable amount of epidemiological research. Mesothelioma will affect a large number of people, admittedly over quite a long period of time.

The problem is concentrated in areas where there was shipbuilding, but it also affects other areas. I want to talk briefly about one of the mothers of the bill, who can no longer speak on behalf of victims. I refer to Margaret Ewing, who on behalf of those of her military constituents who had been exposed to asbestos was tireless in raising the issue and lodging parliamentary questions about it. I do not single her out above anyone else, except for the narrow and particular reason that she is no longer here to speak up on people's behalf. We all regret that.

The case of Margaret Ewing illustrates that people of all parties, rather than just one party, have been involved with the issue. In his Justice 2 Committee incarnation and otherwise, the Conservative member Bill Aitken has been equally closely involved with it, as have the many Labour members who represent a large number of the people who suffer from the disease, and their families. We must not forget sufferers who were in the military, whose legal position is slightly different because of concerns about whom they might sue and Crown indemnity. So far, there has been no sign that those issues will create difficulties, but I hope that my making the point will ensure that it is noted elsewhere.

The Parliament, through its committees, has touched on this subject before. The Justice 2 Committee in the previous Parliament, under the convenership of the present convener of the Justice 1 Committee, Pauline McNeill, was very active in promoting the Coulsfield rules to secure further reform of the operation of a particular part of the court system.

The committee had the best intentions and its work definitely had some value in giving some people a degree of certainty and some ability to bring forward the date of their engagement with the legal system but, with all the complexities of law, the reform also had the unintended side-effect of creating more anguish, as those in the terminal stage of their illness were faced with the choice of suing while they were still alive and feeling settled in their own mind and knowing that, in doing so, they were disadvantaging their relatives, who could sue only after the sufferer's death. This simple bill removes that choice. I certainly commend the size of the bill to the Executive, to my colleagues who might introduce bills in future and to everyone else in government.

On retrospection, I welcome the speedy, effective response to the agreement that the committee was able to negotiate between the witnesses representing various points of view. Initially, the Association of British Insurers was—not unreasonably—somewhat sceptical about the proposals and expressed some fear that mesothelioma might simply be a stalking horse for

other conditions. The committee—and, I am sure, the minister—played a role in talking through these issues with the association, whose fears were calmed and who, in the end, said, “As long as we have certainty about what is happening, the date when it happens can be brought forward.” I might have put the date back a bit more, but that does not matter; we all agreed that the provisions should apply retrospectively to cases raised on or after 20 December 2006. I am sure that Johann Lamont fulfilled one of her more pleasant parliamentary tasks when, during her evidence to the committee, she was able to tell us that the Executive had agreed to the proposal. However, she is nae off the hook, because we will scrutinise the amendment very carefully.

I am absolutely sure that there is good faith on the Government benches and that after we have progressed with the bill without any dissent, in a unanimous, cross-party manner—as we undoubtedly will—the people in the public gallery, their friends and relatives and those who come after will be grateful for this excellent piece of parliamentary business that does considerable credit to everyone who has been involved in it.

15:18

Margaret Mitchell (Central Scotland) (Con):

This bill seeks to rectify the unintended consequences for mesothelioma sufferers and their families of, first, section 1(2) of the Damages (Scotland) Act 1976 and section 1(4) of the 1976 act as amended by the Damages (Scotland) Act 1993 and, secondly, of the Coulsfield recommendations on accelerated court procedure for personal injury cases in the Court of Session.

Sections 1(2) and 1(4) of the 1976 act provide for additional damages to be paid to a sufferer's immediate family only if the sufferer does not settle their claim in full prior to their death. As a result of the Coulsfield recommendations implemented in April 2003, personal injury claims in the Court of Session are now being concluded within a shortened period of 12 to 13 months. Because mesothelioma sufferers survive an average of 14 months, by and large they live long enough to settle their claims. In such cases, section 1(2) of the 1976 act comes into force.

In practical terms, what this all means is that mesothelioma sufferers have opted to forgo their claim so that they safeguard their relatives' ability and right to claim for loss of society and guidance and the grief, sorrow and distress sustained as a result of their death. It is clear that the current legislation puts all parties in an invidious position and has merely served to worsen an already distressing and harrowing situation.

I have frequently and, I believe, justifiably criticised the Executive for legislating to solve a problem when it is unnecessary and often counterproductive to do so, either because a remedy already exists under common law or because the problem can be solved by approaching it in another way—the Scottish Commissioner for Human Rights Bill and the Emergency Workers (Scotland) Bill are cases in point—but I have no doubt that the bill that we are considering today is not only the best, but the only way of resolving a dilemma that, frankly, no family should have to face.

The bill addresses the effect of the current law through provisions that will ensure that the sufferer will no longer have to decide whether to forfeit the claim to which they are entitled, in recognition of their asbestos-related condition, in order to protect their family's financial security. The committee is particularly grateful to Phyllis Craig of Clydeside Action on Asbestos for her poignant and comprehensive explanation of the full extent of the dilemma that sufferers face.

It was decided not to extend the bill's provisions to other conditions, but to confine them to sufferers of mesothelioma, which is a unique condition. The argument for that was advanced convincingly by Frank Maguire, whose firm of solicitors handles 500 mesothelioma cases. He explained that asbestos-related lung cancer is not an analogous condition because it is not possible to say that it has inevitably been caused by asbestos—there are competing causes such as smoking, as well as various very possibly unknown factors, which defenders would seek to blame.

In mesothelioma cases, it is clear from the symptoms that the illness is caused by exposure to asbestos. Defenders accept that a causal link has been established. In those circumstances, the committee was persuaded that it is appropriate to confine the bill's provisions to mesothelioma sufferers alone, although it welcomes the Executive's decision to ask the Scottish Law Commission to review the law of damages in general.

The committee went on to consider the possibility of making the provisions retrospective, so that they cover cases that are settled before the bill is enacted—which will be the seventh day after it receives royal assent—to address the deferral of hearings until after the bill's implementation to ensure that mesothelioma sufferers' families benefit from its provisions.

Representatives of the insurance industry pointed out that although, in general, retrospection is problematic, they were not unduly concerned by what the bill proposed. They volunteered that, after the *Barker v Corus* case, they had agreed

with the Department for Work and Pensions that all claims that followed that judgment but which preceded the passing of the Compensation Act 2006 would be treated under the act. A precedent already existed and the certainty that the insurers sought to achieve had not been compromised. The committee therefore welcomed the Deputy Minister for Justice's statement that the Executive intended to amend the bill at stage 2 to allow it to apply to cases raised on or after 20 December 2006.

The bill is good. It is only fit and proper that I pay tribute to the minister, previous justice committees, the campaigners from Clydeside Action on Asbestos, Frank Maguire and, above all, Des McNulty, without whose work the Scottish Parliament would not be in a position to approve the bill's general principles. It is to be hoped that the knowledge that the bill will mean that their relatives will be adequately provided for after their deaths will give mesothelioma sufferers the peace of mind they seek.

15:24

Mike Pringle (Edinburgh South) (LD): I am very pleased to speak in the stage 1 debate on the Rights of Relatives to Damages (Mesothelioma) (Scotland) Bill, which is certainly the shortest bill that I have had to deal with in my time as a member of the Justice 1 Committee—or as a member of the Justice 2 Committee. Indeed, the Law Society of Scotland briefing on the bill was the shortest I have ever seen from the society.

The shortness of the bill in no way detracts from the fact that, for a small group of people who have suffered greatly as a result of exposure to asbestos and for their families, it will be one of the most important pieces of legislation that the Parliament passes.

I pay tribute to the members who campaigned on the issue, particularly Des McNulty. It is a shame that he will not speak in the debate because he is a minister—I am sure that he wanted to speak. In May 2006, he produced a proposal for a member's bill that would address the problem and the Executive quickly took up the matter on his behalf, which was sensible. Way back in 2000, Duncan McNeil, who is not in the chamber but will probably be back, secured a members' business debate on the issue.

The most important part of my job as a member of the Scottish Parliament is representing my constituents and taking up their causes. The bill is an example of what happens when MSPs campaign hard for their constituents and the Scottish Executive listens to the campaign and introduces legislation that addresses the problem.

We have heard about the problems that arise when claims are made under existing legislation. The bill will change all that, so that not only will mesothelioma victims be able to make a claim before their death but their relatives will be able to do so after the victim has died. The committee heard that the Scottish Law Commission is considering whether only one claim, rather than two claims, could be made. The minister mentioned that.

During stage 1, I was pleased that the insurance companies acknowledged that there was a problem and strongly agreed that it needed to be solved. They thought that the bill offered the right way forward for the people who have suffered for so long. Other members talked about the numbers; there is a big problem.

The committee spent a good deal of time considering the need for retrospective legislation. Although the committee acknowledged that such an approach is almost always resisted and would not often be welcome, when we heard the evidence we thought that there should be retrospection in this instance. I am delighted that the minister has agreed to lodge an amendment at stage 2 to make the bill's provisions apply to cases that were raised on or after 20 December 2006.

There is no doubt that the bill addresses a small but significant problem. The Executive was right to introduce a bill that makes provision on a single matter and I am pleased that sufferers of mesothelioma and their relatives will get decent compensation, as is right and proper. I heartily support the general principles of the bill.

15:28

Pauline McNeill (Glasgow Kelvin) (Lab): As members have said, we are debating one of the shortest bills on record. However, the bill has probably secured the greatest consensus, not just across the parties and among members of the Justice 1 Committee, but among witnesses who came to give evidence. Although it had been suggested that there would be opposition to the bill, by the time witnesses came to give evidence any opposition had disappeared.

During my time as a member of the Justice 2 Committee in the first session of Parliament, and as a member of the Justice 1 Committee, I have probably considered more legislation than most members, but I have never witnessed such a level of consensus on proposed legislation. As Mike Pringle and others have said, there was probably never a greater need for legislation than for the bill that we are considering.

I knew that by the time I got to my feet in this debate everything would have been said—I have been throwing away bits of my speech as the

debate has continued. Marlyn Glen and Mary Mulligan, who have yet to speak, will probably find even less to say that has not already been said.

However, we should repeat some of the important messages. In Duncan McNeil's intervention, we heard about diseases that are associated with industries such as shipbuilding, construction and heavy engineering. It is mostly men who work in those industries, and many have worked all their lives only to discover something that they did not know at the time—that they were contracting a fatal disease. As Stewart Stevenson pointed out, the incidence of mesothelioma is rising, not falling, so we need legislation to deal with that. Projections suggest that the peak will be in 2013—incidence of the disease will certainly get higher before it gets lower.

This has been one of the most shocking and heartbreaking issues that any committee I have been on has had to deal with. Like other members, I want to record my appreciation for the exemplary work of Clydeside Action on Asbestos—which has kept at it and has kept on lobbying Parliament—and for the work of Frank Maguire, who is clearly an expert lawyer in this field. He provided clarity on this complex issue.

Work that has been done in this session of Parliament has demonstrated that committees can do all sorts of things if they want to. I am pleased that Bill Aitken is here; he will vouch for the fact that the collaboration between the committee and the judiciary showed that it is possible, if minds are put together, to do good things. As Stewart Stevenson said, as a result of that work we now have a shortened procedure, although that has brought other difficulties. As we have heard, under section 1 of the Damages (Scotland) Act 1976 the immediate family of an injured person is prevented from claiming damages on the death of that person if the deceased has already settled. We know what the bill is intended to do, and we understand the dilemma that families face. The average life expectancy after diagnosis is 14 months.

The fact that there has been consensus does not mean that we should not test the competency of the bill. I want to emphasise that there being little opposition to it did not stop the Justice 1 Committee from testing the bill.

We started with retrospection—it was the obvious place to start. We know the difficulties and pitfalls of retrospection, but let us not underestimate what I imagine might—I do not know—have been the behind-the-scenes discussions among ministers and their officials that brought about the announcement, before we have reached stage 2, that we will not have to argue over retrospection. I am grateful to the ministers for having made that announcement now

so that we can amend the bill at stage 2. I will rely on their legal judgment that the retrospection in the bill will not be challenged. I am confident that it will not be.

I whole-heartedly welcome what Cathy Jamieson said about the single action. That matter was raised with the committee. If a single action will be enough, without Parliament interfering unnecessarily with the rules of court, that will be very welcome.

Stewart Stevenson: Does Pauline McNeill agree that it is vital, if a single action leads to payments being made before the action is concluded, that the payments are secure and can under no circumstances be reclaimed? That should be the proper test of an action that continues both before and after death.

Pauline McNeill: I have no difficulty in agreeing with that. The purpose of the single action would be to ensure that families would not have to pay more legal fees than necessary and would not have to attend more court sessions than necessary. Once the initial action was established, people would obviously have to go back to court at some point to argue for the damages claim that will be allowed under the bill. We have to make things easier for families in such circumstances.

The Justice 1 committee tested the idea that mesothelioma is a unique disease. We had to be sure that legislation that would apply to mesothelioma would not also apply to situations that we had not envisaged. After taking evidence, the committee was satisfied that, given the circumstances and the nature of the disease, we could legislate and be sure about what we were doing.

The committee considers that the bill offers the best way to remove the dilemma of mesothelioma sufferers. We say that because at one time, some of the evidence suggested that there might be other less formal ways of allowing victims to have interim payments. We tested that idea deeply and are satisfied that the bill is the best way forward.

We tempted fate at the outset by suggesting that the bill would be straightforward—we have been there before—but having concluded stage 1, I am pretty sure that it is straightforward. We know roughly what we intend to do at stage 2 and we look forward to that.

Again, I thank the former Deputy Minister for Justice, Hugh Henry, and I thank Johann Lamont and the Minister for Justice, Cathy Jamieson, for what she said today. The bill has unanimous support and I look forward to amending it at stage 2.

15:36

Ms Sandra White (Glasgow) (SNP): As others have rightly pointed out, the need to legislate was brought about by the dilemma facing sufferers of mesothelioma and their families. The unstinting work of Clydeside Action on Asbestos and others to bring justice to victims must be applauded and commended, as everyone else has said. I am also glad that interested parties' concerns about the bill have been resolved, which has cleared the way for unanimous support for the bill at stage 1.

I further welcome the commitment that was made by the Executive to amend the bill at stage 2 so that it will apply the provisions retrospectively and thus end the uncertainty that sufferers experience. I hope that the Executive's consultation of the Court of Session, the insurance industry and solicitors on the possibility of victims proceeding with one court action rather than two, as Mike Pringle mentioned, will be fruitful. Pursuit of a single action would be in the best interests of all parties and would lead to a more expedient and less harrowing process.

The Public Petitions Committee, of which I am a member, has dealt for several years with petitions on the issue from concerned groups. The evidence that we heard about victims' suffering was truly harrowing, as other members mentioned. I commend those groups on their contributions to the Public Petitions Committee as well as to the Justice 1 Committee. They contributed to the debate and highlighted the need for the bill. There is no doubt that the bill is welcomed by all members from all parties, for which we are grateful.

Although the provisions in the bill are welcomed by everyone, the bill will not put an end to the suffering. We must be ready to face other challenges, about which the Public Petitions Committee has received petitions. One of the great concerns that has been expressed by petitioners is about the need to provide adequate medication for people who suffer from this terrible disease. That is especially necessary when we consider the terrible death that is suffered by the victims.

At present, Alimta is the only drug that is available to treat the condition. It has been available in Scotland since July 2005, based on the advice of the Scottish Medicines Consortium. However, the drug is not freely available in England, where the National Institute for Health and Clinical Excellence—the United Kingdom-wide authority that has responsibility for licensing the drug—rejected its provision through the NHS. The drug is not part of the bill, so it is important that we consider it in that context. An appeal to NICE is currently in progress, but if that appeal fails—NICE has never overturned a ruling—there is, because

NICE guidance supersedes that of the SMC, a real danger that mesothelioma sufferers in Scotland will be denied the only treatment that is available to them. We all accept that we should consider that situation.

That concern was put to me by the same people who lobbied for the bill, not just through the Public Petitions Committee, but at meetings and through letters. Those people ask that we consider availability of Alimta as we consider the bill. Although I recognise that the problem does not relate directly to the bill, I urge the Executive to take this opportunity to allay sufferers' fear that the SMC's decision will not be upheld in the event that NICE rejects the provision of Alimta for the treatment of mesothelioma. Many sufferers have voiced concern that enactment of the bill will make it easier to withdraw free provision of the drug—which has been free since 2005—because sufferers will be considered to be able to pay for the treatment out of their own pockets, which would avoid the need for free provision on prescription. Although I support the bill wholeheartedly, as all members do, I would like the Executive to reassure us that the provision of Alimta will remain free in Scotland, regardless of the NICE decision.

15:40

Eleanor Scott (Highlands and Islands) (Green): I will speak briefly, as somebody with a medical background who is aware of the devastating effects of mesothelioma. I associate myself with Sandra White's concerns about the continued availability of Alimta, although that issue is not strictly pertinent to the bill. I echo the sentiments that the minister and other members expressed in thanking those who have been affected by and campaigned on the issue over the years, especially Des McNulty, whose member's bill on the matter we supported. Thanks are due to Parliament's justice committees which, over the past few years, have scrutinised legislation on the issues that face mesothelioma sufferers and their families. As a result of that consideration and legislation, Parliament has made substantial and positive changes to the prospects that those people face.

In part, the bill is a product of the fact that we have created victims of our success. The effective implementation of the recommendations by Lord Coulsfield on accelerating the timetable for the settlement of all personal injury cases since 2003 has created a dilemma because, for the first time, mesothelioma sufferers have a high chance of receiving damages in their lifetime. Ironically, the justified and welcome increase in the amount of damages that a family can receive to compensate for grief, suffering and emotional distress has also

worsened the predicament that sufferers and their families face. As has been mentioned, it was uncovered in evidence to the Justice 1 Committee that the situation has led to about 80 per cent of sufferers not pursuing their claims in order to protect their loved ones. The bill will remove that anomaly for mesothelioma sufferers and their families and will allow them to make choices about compensation together, in the sufferers' lifetime, without risking the families' access to further compensation in the future.

I commend the ministers' decision, following the committee's recommendation, to allow the bill to apply retrospectively. The Executive's proposal to amend the bill at stage 2 to include cases that have been brought since December 2006 is a wise and conciliatory move. The committee's report underlines the consensus among all the groups that are involved that the bill is the most appropriate means of resolving some of the issues that mesothelioma sufferers and their families face. The bill will make their lives more comfortable, which is why the Scottish Greens support it whole-heartedly.

15:43

Mrs Mary Mulligan (Linlithgow) (Lab): This morning, I met a school group from Low Port primary school in my constituency. I am sure that members will agree that one of the more frequently asked questions by such groups is, "Why did you want to be an MSP?" Even after nearly eight years as a member, I still say that it is because I wanted to make life better for people. I realise that that can sound trite and insincere, but I believe that all members want the same thing, although we are divided on how to achieve the aim and on the priorities.

Bills such as the one that we are considering allow us to demonstrate how we can improve lives. They show the benefits of having a Scottish Parliament that arise from the speed and efficiency with which we can respond to situations. Few members of the media are in the public gallery today—although I am sure that they are in another place listening to us intently—and I know that the bill will not be the top item in any news bulletin this evening, but it is important to many people throughout Scotland.

Why do we need to pass the bill? As has been said, in the early days of the first session of Parliament, a petition was lodged on asbestos poisoning as part of a strong campaign from the Inverclyde and Clydebank areas that was supported ably by my colleagues Duncan McNeil and Des McNulty.

The petition was referred to the session 1 Justice 2 Committee, and Pauline McNeill and Bill

Aitken produced a report on the issue. Another report of the time—the Coulsfield report—said that settlement for damages should be accelerated, but the Justice 2 Committee report went further and recommended special procedures for mesothelioma cases. The reason is that mesothelioma is a particularly aggressive disease: it can take 20 years to develop but, once it is diagnosed, the average life expectancy of a sufferer is 14 months and there is no cure. There was across-the-board support for the Justice 2 Committee's recommendations. However, as we have heard, there was to be an unintended consequence, which is what we are dealing with this afternoon.

Mesothelioma sufferers are entitled to damages for their suffering and premature deaths. However, if they claim for damages in their own lifetimes, they prevent their families from recovering damages. One sufferer who did not pursue his claim spent the last months of his life without the additional support to which he was entitled. Before the settlement of claims was speeded up, that was not an issue because, tragically, the claimant probably died before the claim was settled. Under the reforms, sufferers were faced with an appalling dilemma that no one should have to deal with.

One of the main concerns that I and other committee members had was whether we should extend the bill to sufferers of conditions other than mesothelioma, but the evidence that we received convinced us that the bill should apply to mesothelioma alone. The disease has unique characteristics: it is caused by exposure to asbestos; there is no cure; and, after diagnosis, life expectancy is short. I assure everyone that we have not agreed to restrict the bill to suit any interested party—neither the drafters of the bill nor the insurers, who eventually agreed with us. The groups that represent mesothelioma sufferers also supported the restriction and said that it is important that we not lose the bill's focus.

Executive officials reported, as the minister said today, that the Scottish Law Commission is conducting a more wide-ranging review of the law of damages. I stress that review's importance. Others who seek damages have, at various times, had problems in reaching settlements and I am sure that the committee will support me when I say that such people should benefit from improvements to the system of awarding damages just as mesothelioma sufferers will.

The bill is short but worthy. Members should be assured that the committee scrutinised it as thoroughly as it would a longer or more complicated bill—it would not be the Justice 1 Committee if it did not.

I began by praising Parliament's role, but I also want to praise the Deputy Minister for Justice,

Johann Lamont. The committee took evidence on retrospection in recognition of the fact that some sufferers were delaying their cases to see what the committee and Parliament would decide. We managed to convince everyone, including the representatives from the insurance industry, that retrospection to a set date was the right approach. Having kept herself informed of our deliberations, the minister was able to come to the committee and say that the Executive would support retrospection to 20 December 2006. That means that people who are dying can settle their claims now.

The debate has been good. It is important that we ensure that everybody knows the business that Parliament is carrying out. I look forward to reaching stage 3 and concluding the bill's consideration.

15:49

Carolyn Leckie (Central Scotland) (SSP): I offer my support for the bill. No greater injustice has come before Parliament than the situation of mesothelioma sufferers and their families. Nothing could be worse for people who have worked all their lives in really hard jobs, and who have looked forward to retirement at the end of their working lives, than to be diagnosed with a terminal illness that is related to those hours, weeks, months and years of hard labour. Those people face the prospect of being unable to enjoy their families or see their grandchildren growing up. It is bad enough to be diagnosed with a terminal illness and to face all the difficulties that that poses for a person and their family, such as organising care and dealing with grief and bereavement, without having to contemplate embarking on a legal action and without having to contemplate a terrible unsolvable dilemma. I can only imagine what that must be like.

I have friends and family who have been affected by the disease, which does not bear thinking about. I suppose that that is why I will inject a wee bit of discord into the consensus. The bill is welcome and necessary and I am glad that it has been introduced, but the amounts of damages do not match the suffering and the injustice that people have experienced as a result of their work. Even recently, the sums have been between £20,000 and £28,000 to a widow; from £5,000 to £10,000 to an adult child; and from £3,000 to £10,000 to an elderly parent who loses an adult son. That is really not a lot of money. Even the money for a widow does not match the average annual salary. People are losing 10, 20 or 30 years from their lives and from the time they can contribute to the family income, so those sums are not enough. The bill does not deal with that, but it

needs to be considered and the level of damages needs to be increased.

I am glad that the minister will lodge an amendment to introduce retrospection, but will the arbitrary date create problems? I do not imagine that terribly many people are approaching the cut-off date, but is it appropriate to consider amendments that would take the retrospection further back? Is the Justice 1 Committee considering that?

Margo MacDonald (Lothians) (Ind): I had not meant to intervene in the debate; I came simply to listen. However, 20 years ago, I produced a BBC documentary in which I reported on mesothelioma. I met many of the people to whom Stewart Stevenson referred, as well as their families. Those people's illness has matured in those 20 years and they now approach the time when they really need the money. Anything that the minister can do to make the retrospection more generous would not be unreasonable.

Carolyn Leckie: I can only concur with Margo MacDonald's sentiments. I hope that extension of retrospection can be further explored.

I pay tribute to organisations such as Clydeside Action on Asbestos and Thompsons Solicitors, and to MSPs for pursuing the matter vigorously. If Parliament had not been established and we were relying on Westminster to sort out the situation, we would wait another 10, 20 or 30 years. That is something to congratulate this Parliament on.

An element of me wonders why, oh, why we had to reach this stage when the injustice is obvious and obviously had to be righted. Although I agree with members who expressed concerns about other situations and other conditions, I understand completely why the bill's focus must be on mesothelioma, because of the injustice and the dilemmas with which people have lived. However, I hope that the Executive will consider other conditions in the future and that retrospection will apply to them, too. In summing up, will the deputy minister give a timetable for the review that has been mentioned? When will it start and how long is it expected to take?

We have consensus today, but we must put the bill in a wee bit of perspective. As we know, mesothelioma is concentrated in certain areas. Damages in no way make up for the suffering and hardship and the impact of the disease on families and communities, and in no way does the level of damages make up for having to live with the disease for years and years. I repeat that, even recently, the compensation awards from the courts go nowhere near far enough to make up for that.

The Deputy Presiding Officer: We move to the wind-up speeches and I call Mike Pringle. Sorry, Mr Pringle, it is Marilyn Glen. Sorry, Marilyn.

15:55

Marlyn Glen (North East Scotland) (Lab):

Thank you, Presiding Officer. I was beginning to feel disappointed about not getting the opportunity to speak in support of the Rights of Relatives to Damages (Mesothelioma) (Scotland) Bill at stage 1.

The bill is an excellent example of joint working between affected groups, the committees and the Executive. The history of the bill, which has been introduced to Parliament in a short period of time, shows how well and how responsibly our system can work in response to a specific and urgent problem. Sometimes—too often, in fact—the good work of our Parliament is not given the recognition it deserves. We should take the opportunity to emphasise that work. I do not apologise if, in speaking late in the debate, I repeat some of the points that have been made already, because they bear repetition.

The Justice 1 Committee evidence sessions on the bill were at times extremely difficult, because of the seriousness of mesothelioma and the tragic and inevitable consequences of contracting it. They were also difficult because of the challenges that people have faced in seeking compensation. However, because of co-operative joint working, we managed to allay the fears of witnesses about the terrible dilemma of choosing the right time to seek compensation. In fact, as we heard in the minister's announcement that there would be a degree of retrospection, from 20 December 2006, we have already improved on the bill as introduced. The witnesses to the Justice 1 Committee were descriptive and moving in their presentations, and throughout the process there was a sense of everyone working together to address the difficulties as far and as soon as possible.

Other members have outlined the course of the disease and the short time people can expect to live between diagnosis and death. A mere 14 months is the expected timescale, but even that can be optimistic. According to the evidence that the Justice 1 Committee received from Ian Babbs of Asbestos Action (Tayside), that extremely short period is what makes the bill so important to sufferers and their families. Asbestos Action (Tayside) is a charity that was set up in Dundee a year ago to ensure that there is a local point of contact for the 20 per cent of sufferers who reside in the east of Scotland. It complements successful west coast groups, such as Clydeside Action on Asbestos, that have been campaigning for more than 20 years. The bill represents a significant step forward in that campaign.

The Tayside group's intention is to give practical support and advice to people with asbestos-related disease and to provide an accessible, local

service to respond to queries. I endorse the call on its excellent website for volunteers to ensure the continued availability of the service. It is distressing that three of the members who joined the group at its launch did not survive until its first anniversary—a truly dreadful reminder of the consequences of exposure to asbestos in the workplace in places such as shipyards, including, on the east coast, Rosyth, and Robb Caledon in Dundee. The latest available figures show that, throughout Scotland, 197 cases of mesothelioma were diagnosed in 2003 and there were 161 deaths in 2004. It is with those figures in mind that I support the principles of the bill.

15:59

Mike Pringle: Thank you, Presiding Officer. You caught me out earlier, so I am glad that I had a chance to catch my thoughts before speaking.

Discussions during the passage of the bill and on other occasions have highlighted how other members' constituents have been particularly affected by mesothelioma. No cases have been brought to me by constituents who have suffered from this terrible disease, for which I am thankful.

Stewart Stevenson made the point that the bill addresses one specific illness, because we are not aware of mesothelioma being caused by anything other than asbestos. That is absolutely right, and I take it on board as, I am sure, does the minister. I also agree with Stewart Stevenson's comments about the size of the bill.

Margaret Mitchell made some good points. She read out a list of people whom she complimented on their efforts to introduce the bill—the people from Clydeside and so on. I failed to mention them in my opening speech, so I endorse her comments.

Pauline McNeill said that, by the time she was called to speak in the debate, everything had been said. I have some sympathy with her. Even speaking third in the debate, I thought, "What more is there to say?" Of course, often there is not consensus in debates—there is on the bill—and, as the representatives of political parties, we often make political points. That is why today's debate has been a little difficult—we all agree about everything, which is extremely good. As Pauline McNeill said, this is the smallest bill that has been introduced in the Parliament, and there is absolute agreement on its principles.

Sandra White referred to the fact that medication is not covered by the bill. I confess that the subject is new to me, as in Edinburgh South the issue has not come across my radar. Nevertheless, if it is a problem I hope that, as a result of today's debate and what Sandra White has said, not only the minister but perhaps the Health Committee will

pursue the issue. Clearly, the small group of mesothelioma sufferers have suffered enough already and should not be made to suffer further because of a lack of medication.

Mary Mulligan talked about the first question that she was asked by a school group that she met this morning. The two questions that I am always asked first—perhaps it has something to do with my age—are, “How old are you, mister?” and, “How much do you earn?” I agree entirely with Mary Mulligan. As I said in my opening speech, this is an extremely important issue and we are here to represent our constituents before any particular political party.

Carolyn Leckie raised the issue of retrospection and the question whether the cut-off date should be beyond 20 December 2006. The Justice 1 Committee took evidence from Frank Maguire at stage 1, and stated in its report:

“Frank Maguire indicated to the Committee that applying the Bill retrospectively would be welcomed. He informed the Committee that he had 62 cases where mesothelioma sufferers were deferring their hearings until after the implementation of the Bill, so as to benefit from its provisions. He suggested that if the Bill were to apply retrospectively then he would be able to proceed with these cases.”

The committee also heard that point in other evidence. The minister may want to comment on the issue in her closing remarks. The committee considered the matter thoroughly, and if it had felt that an earlier date was appropriate it would have gone for it, but 20 December 2006 will include everybody who has not made a claim but who wants to make a claim under the bill.

I welcome the bill and I am delighted that there is consensus among all members on it. I am sure that, as Marlyn Glen said, we want to get to stage 3 as quickly as possible and get the bill into statute so that people can start to benefit from the provisions of this little, but most important, bill.

16:04

Bill Aitken (Glasgow) (Con): I should begin by making a declaration of interest in that, by virtue of previous employment, I am a beneficiary of an insurance pension fund. Members will understand that it is my personal inclination to be a drain on that fund for as many years as possible, and it is somewhat ironic that today I will take a decision that might prejudice my future earnings. However, it is the right thing to do.

Life is all about decisions, and sometimes we have to make hard decisions, but surely there could never be a crueller dilemma than that which is currently faced by those who are dying of mesothelioma. We would have failed in our duty

had we not reacted as we have done in the past five or six years.

When people ask me why we should legislate uniquely for mesothelioma, I say that we should do so for a number of reasons. The cases are invariably terminal and they are finite in number. Clearly, the numbers will peak at a certain point, but then they will fall away because of the change in industrial processes that came about in the mid-1970s, when the dangers of asbestos became apparent. Eventually, there will not be the volume of cases that we have at the moment.

Margo MacDonald: I think that I am correct in saying that blue and brown asbestos were not made illegal until the late 1980s. People whom I spoke to at the time did not know that they had that one fibre in their lungs that causes mesothelioma. They are now coming to the end of the time in which they might develop the disease.

Bill Aitken: I am not certain that that is the case. It may be an arguable point, but my clear understanding and professional recollection are that the dangers became apparent in the 1970s.

The point about the claims is that they are immediately apparent and can be identified. The proximate cause of the condition is the asbestos in question. Liability, although not absolute in legal terms, is absolute in practical terms. Although there may be disagreements about quanta from time to time, eventually somebody is going to have to pay up, therefore there is no bar in terms of law or commercial practice on dealing with the cases as we propose in the bill.

The Parliament frequently has to ask itself—although frankly it does not do so nearly enough—whether legislation is necessary or whether an undoubted problem could be dealt with by other means. The minister has heard me wax eloquent on that over the years. However, in this case, the argument is clear: there is no alternative.

Interim payments were not the solution, although they have been possible for many years. There was a lack of confidence on the part of pursuers in going down that route because, in the Scots process, liability had not been confirmed. I find it inconceivable that such liability would not have been confirmed in due course, but it was a hard decision—a gamble—particularly on the part of people who were dying. They could have been left in the position of having to worry in their final days about whether their family would be affected by a recovery from insurers and have to pay back the damages. Understandably, people were reluctant to go down that route.

Some of us worked hard to improve the existing system. Pauline McNeill and I used our possibly doubtful powers of persuasion to persuade the judiciary that it was the way forward, but we must

recognise that it was simply not the answer. It was always going to be an interim solution and only part of the overall picture. That being so, the bill is necessary. It reflects well on the Parliament that action has been taken in such an expeditious manner.

Clydeside Action on Asbestos is entitled to claim great credit for what it has done. It made its representations clearly and in a moderate, courteous and persuasive manner. The fact that the bill will pass stage 1 today is in many respects due to the way in which it conducted the process. The group was very persuasive indeed; others could learn a great deal from it.

It is a pleasure to be associated with a bill that will do an awful lot for an awful lot of unfortunate people. Tragically, nothing can be done to improve their health in the long term, but surely passing the bill will be some comfort to them. The bill reflects well on all those who have been involved in the process.

16:10

Mr Kenny MacAskill (Lothians) (SNP): As Bill Aitken and others have said, this has been a consensual debate. That is as it should be. If the debate had not been consensual, it would have been shameful and the victims, their families and the people of Scotland would not have forgiven us. Thankfully, the tone and tenor of the debate were set early on by the Minister for Justice, who made it clear that the matter is about justice. Some things are not about partisanship and narrow party politics, even when an election is looming; they are simply about justice and doing what is right.

When something is manifestly wrong, as it is in the case that we are discussing, those of us who are privileged enough to be in the legislature for the people of Scotland have an obligation to set things right. The bill reflects well on the Parliament and all those involved—ministers past and present, the Justice 1 Committee and others. It also reflects well on the campaigners who have pursued the issue doggedly. Clydeside Action on Asbestos has been mentioned along with other groups, such as Asbestos Action (Tayside), which my colleague Shona Robison knows well. For them, the passage of the bill is simply one further hurdle that they have had to face.

I first came across asbestos and the diseases related to it when, as a young agent, I moved to Glasgow in the early 1980s. Mesothelioma was just beginning to come through. Hindsight is a great thing, and we can look back and wonder why we allowed men, in particular, to work with asbestos in the shipyards, but we also put it in our homes, our schools and our hospitals. We did not understand that problems would arise.

When the chickens came home to roost, those men experienced difficulties and deaths began to occur. At that point, some shameful actions came to light—not by all companies, but by some. A company would close down and a new company would be opened up, and the insurance agents—perhaps understandably, because of the terms of their contracts—would say that their company was not involved. People had to pursue cases with dogged determination, despite innumerable difficulties, some of which came about by accident rather than by design.

With the wisdom of hindsight, we can see the problems with asbestos—be it brown, blue or another colour—but we could not see those problems at the time. That might be understandable, but the actions that some companies took were unforgivable. They knew what they were doing when they went out of their way to frustrate things. In many instances, they dragged out the process to ensure that a legitimate claim by an individual expired with their death. Thankfully, we have changed the process and accelerated the progress of cases through the courts. I have no doubt that there will be other hurdles, however, and it will be the duty of a future Parliament to ensure that those are addressed.

As I said, the minister set the tone of the debate. She was right to say that the matter is about justice. As somebody who was involved in the law for 20 years before I was elected to the Parliament, I know that justice does not always equate with the law. The law can sometimes be an ass. Sometimes, the law is simply the rules and regulations that we, as legislators, have created. When matters go before the courts and the law is interpreted, people sometimes do not fall within the precise criteria in legislation. However, some things are so manifestly unjust that it is our obligation to take steps to ensure that we address them. Thankfully, that is what we are doing today.

Pauline McNeill: The member is saying that justice needs to be done. On that theme, does he agree with the following point, which has not been made today but which is contained in the Justice 1 Committee's report? One of the practical effects of changing the law is that sufferers will have a chance of getting damages in life, while they are suffering, and their families will have a chance of getting damages when they die. That is a significant impact of changing the law.

Mr MacAskill: Absolutely. We have all talked about the Hobson's choice that has had to be made, which is manifestly wrong. We want to strike the right balance, which is the least that we can do for these individuals. They should have the opportunity to claim money to allow them to have a final holiday, perhaps, or to enjoy themselves with their families. When they pass away, their

families should also have some recompense for their loss. We are trying to do the very minimum. As Carolyn Leckie said, no matter how high the damages awarded, we can never replace the loss of a loved one. That is a valid point.

I turn to the issue of the numbers involved. I had a chat with Harry Benson when he was here to take the Presiding Officer's photo, and he told me that many of the photographers who had been at the 9/11 tragedy are now suffering from asbestos-related problems, which I had not realised. We might think that, given the demise of our shipyards, we have seen the end of asbestosis and related diseases. Given the problems in construction and demolition, it is likely that the law of unintended consequences will kick in and that we will see the incidence of these diseases increase as a result of something that we did not expect—although perhaps not as a result of a tragedy as massive as 9/11—in the same way that we did not appreciate what would happen when we started to use asbestos.

We have addressed correctly the issue of retrospectivity. It is difficult to consider whether we need to roll back further the date on which the provisions come into effect. Clearly, sometimes the companies involved knew, or ought to have known, what would happen. We have made the position quite clear to the insurers, who are not being prejudiced in any way. We are not rolling back the date many years, which is usually what causes the problem with retrospectivity. In the circumstances, it is fair and appropriate to make the bill apply retrospectively. The insurance companies, which will ultimately have to pay out the money, are not being prejudiced in any way, because the minister made it quite clear what they would have to face. The appropriate balance has been struck.

The minister referred to the Scottish Law Commission's review of personal injury law, which is to be welcomed. Those who have suffered from mesothelioma have found it difficult to find a company that they could sue and which would accept responsibility. In some cases, they pursued a company only to find that it was a shell company and that all its assets and money had been moved to another company bearing the same name, but with, for example, "(1980)" at the end.

There are shifting sands and we have to ensure that our legislation moves along with them. We welcome not only the tenor that the minister set for the debate but her reassurance that the Scottish Law Commission is reviewing personal injury law, because there are a number of other matters relating to personal injury that we need to address. It is our obligation to make amends not just for the injustice of mesothelioma but for the numerous other injustices that still exist.

16:18

The Deputy Minister for Justice (Johann Lamont): This has been a consensual debate, but it has not been born of consensus. We recognise that people have struggled for many years for recognition: recognition of the problem, and recognition of the need for Government to act to solve it.

It is an absolute privilege to be involved in this debate, not simply because everyone welcomes this important bill at stage 1, but because I have had to do very little to make that happen. That is to be welcomed, and having a nice time at committee is even more of a pleasure. However, although there is consensus and people have come together, we acknowledge that it was not always thus.

We also acknowledge that during the evidence taking at stage 1, all those involved in the debate, from all sides—or from what could be perceived to be sides—came together and were focused on achieving the solutions that the bill identifies.

Mary Mulligan said that we can be perceived as trite when we say that we wanted to become an MSP because we wanted to make a difference. However, I hope that people in Scotland will take confidence from seeing a real closing of the distance between elected representatives and those whom they represent.

I believe that the bill shows that it is possible for the walls of a Parliament to be breached and for those in our communities who have suffered injustice and who are entitled to have that injustice sorted to have the matter addressed by a Parliament. Sometimes, solutions come through conflict and argument, but sometimes solutions come through building a consensus round an entirely logical position. I believe that this is a good day for the Parliament and that the bill will make a significant difference to those who have campaigned on the issue for so long.

Carolyn Leckie said a lot of people suffer from the problem as a consequence of the jobs that they did. The cruelty of someone suffering in their retirement as a consequence of what they did before they were retired has already been identified. The way in which people resisted taking responsibility for that reflects a time of reckless disregard for the health and entitlements of others in the workplace. It is good that there has been movement and that there is now recognition of the significance of health and safety measures in protecting working people in their everyday lives, so that, later in life, people will not have to live with the consequences of such recklessness.

This is a straightforward and simple bill. It demonstrates the Executive's and the Parliament's ability to respond quickly, positively and with

compassion to secure changes in the law when faced with a compelling human need.

We know about the cruel dilemma that the bill seeks to address. We know that sufferers are forgoing, or have forgone, the comforts that compensation might provide before they die so that they do not disadvantage their families. We know that most sufferers are men who were exposed to asbestos in the course of their work, but members of their families have also been at risk through contact with the fibres.

Most deaths from the disease occur between the ages of 60 and 80, with only 18 per cent occurring before the age of 60, and we know that the problem will continue. About 80 per cent of cases can be associated with occupations in which there was a greater likelihood of exposure to asbestos, such as shipbuilding and construction—as evidenced in Des McNulty's and Duncan McNeil's constituencies—but I recognise the point made by Stewart Stevenson, and we should be alive to the fact that other groups have also suffered.

Although I came late to the matter, I had responsibility for the bill in committee. During the oral evidence sessions, I was particularly struck by the fact that the issues go far beyond financial considerations, such as damages—that is one of the dilemmas. For example, someone who suffers wants the person who caused their suffering to acknowledge that. They are denied not only that but the finance that would give them comfort at the end of their life. They are denied the opportunity to hear someone say, "This was my fault. It is my responsibility. This is what I have done to you." The sufferers want that acknowledgement. I found that a powerful message: even if this is not about the money, it is important for us to address the provision of an opportunity for the suffering of individuals to be acknowledged.

The bill will allow sufferers to hold someone to account before they die without worrying about disadvantaging their family. I have been genuinely heartened today to hear from members throughout the chamber their warm support for the bill.

I will make some brief points on the issues that have been identified. As Mike Pringle said, there was a great deal of discussion of retrospection in committee. Frank Maguire stated:

"I take the convener's point ... that the insurers and defenders have not had notice that that"—

that is, retrospection—

was going to happen. If the Scottish Executive indicated now that, once royal assent is given, the act will be retrospective from now, that might make me feel a bit easier regarding any human rights challenge in future."—*[Official Report, 6 December 2006; c 4127-28.]*

That measure gives certainty to those who want to use it from now, but at the same time it reduces

the opportunity of challenge. The evidence to support that exists: in the month before 20 December, only one sufferer took up a case, but since 20 December 13 sufferers have been able to raise a case. Dealing with retrospection to enable us to capture that small group has been a significant step, which addresses a slightly different point from the one made by Carolyn Leckie.

On the issue of one court action rather than two, we have recognised the importance of the point made by the Justice 1 Committee and we are currently taking the recommendation forward with external stakeholders.

Sandra White identified the issue of Alimta. As she said, an appeal against the NICE final appraisal document has been upheld on several counts. NICE is therefore looking again at Alimta and plans to announce its decision in September. When NICE has come to a view, NHS Quality Improvement Scotland will consider the appraisal and advise whether it should apply in Scotland. Once NHS QIS has come to a view, Scottish NHS boards will be expected to follow its advice. I do not pretend to be an expert in this area, but my understanding is that that advice would be taken in line with the criteria for which the boards have responsibility; it would not be about the sufferers' incomes. Whether someone has secured damages ought not to be taken into consideration if Alimta is considered to be appropriate in their case.

Work has already begun on the Scottish Law Commission review of the law of personal injury damages. It cannot be done very quickly, but the Scottish Law Commission will report in 2008. It will be a major and important piece of work, as has already been said. The level of damages is a matter for the courts, or for a jury, if one is involved in the case.

We recognise the importance of what we are doing here today. We are sending a signal to those who are suffering about their right to have their suffering recognised, to have those who are at fault held to account and not to have the dilemma of worrying about their families.

I thank the members of the Justice 1 Committee, the clerking staff and the officials who had to deal with me at such a late stage in the process for their support. I am grateful for the thoroughness of all those who were involved in the process.

The Deputy Minister for Communities (Des McNulty): Clydeside Action on Asbestos has been referred to but I would like to highlight the prominent role in all these issues played by the Clydebank Asbestos Group, which is represented here today.

Johann Lamont: Indeed. As was said earlier, Des McNulty also represented those interests. We have already recognised the very significant role of all the groups in forcing the issue on our attention.

We are showing the flexibility of the Scottish Parliament in using the most appropriate solution to remedy the problem. We are sending out an important message about our accessibility and willingness to seek solutions to the problems that people have identified. Perhaps those solutions will not make the headlines, but they will make a significant difference.

We are considering another appropriate solution to a problem—this time, that faced by people in Scotland who suffer from mesothelioma. The bill was the right thing to do. It will provide justice to those who suffer from this terrible disease. We were encouraged by the unanimous support that was given last summer to the legislative consent motion in relation to the Barker judgment, and I hope that today members will support the motion on the general principles of the Rights of Relatives to Damages (Mesothelioma) (Scotland) Bill in a similarly whole-hearted way.

Statistics and Registration Service Bill

The Deputy Presiding Officer (Murray Tosh):

The next item of business is a debate on motion S2M-5467, in the name of Tom McCabe, on the Statistics and Registration Service Bill, which is United Kingdom legislation.

16:28

The Minister for Finance and Public Service Reform (Mr Tom McCabe):

This is a welcome opportunity to reaffirm the Executive's position on a very important motion, which the Finance Committee considered and supported last month. The Scottish Executive wishes to be included in the bill because we are determined to promote the high integrity that exists in official statistics; that in itself is a good reason for our inclusion.

The bill's intentions were welcomed during discussions at Westminster, and a good deal of the written evidence that the Finance Committee received, including evidence from ISD Scotland, welcomed Scotland's inclusion.

The bill's aim is to reinforce the integrity and quality of official statistics by establishing a new independent statistics board, which will operate at arm's length from ministers and will have a statutory responsibility for promoting and safeguarding the quality of official statistics.

There are many good reasons for our being included in the bill. We will be able to continue with a common set of standards for statistics. We will be at one with our colleagues in Northern Ireland and Wales, who have agreed to participate. A common approach across the United Kingdom is the most efficient way to adhere to international statistical standards. The professionalism of independent scrutiny will be enhanced, because we will have access to top-level expertise. The bill will also create an important role for the Parliament to scrutinise the new board's work—that is one more sound reason for Scotland to be included in the bill.

In its report, the Finance Committee commented on the independence of the chief statistician. I hope that it is reassured by the facility for parliamentary committees to question not just the chief statistician but other statistical experts directly on the methods, format, content and timing of statistical releases. Given the high reputation of the parliament's committee system, I am sure that that will increase the integrity of official figures.

As is normal, we will produce a full response to the committee's recommendations. That response will be predicated on the Executive's determination to improve public confidence in official statistics.

I move,

That the Parliament agrees that the provisions of the Statistics and Registration Service Bill, introduced in the House of Commons on 21 November 2006, which relate to statistics in Scotland and which are within the legislative competence of the Scottish Parliament or which confer functions on the Scottish Ministers, should be considered by the UK Parliament.

16:30

Jim Mather (Highlands and Islands) (SNP):

We oppose the motion on principle, on the basis that legislation that will materially affect Scotland should be scrutinised, debated and passed in Scotland, not at Westminster. There is no doubt that the motion, if agreed to as it stands, will have a materially adverse effect on Scotland.

Credible statistics are vital to aid improvement in the performance of Government over time, to maintain and increase the accountability of every tier of government and to provide external investors with a straightforward means of justifying future investments in our country. We oppose the motion because the bill has been subjected to inadequate parliamentary process, especially as it is liable to damage our reputation of integrity and probity, which has been built up over many years. We have had only one evidence-taking session on the bill and very little time to address the concerns that were voiced here in a members' debate in May last year. That debate firmly favoured the creation of a stronger, independent Scottish statistics body.

There is real concern about the evidence that was taken during the consultation process, which was nothing like comprehensive. Many people could have been consulted, especially retired people from the ranks of academia and retired civil servants. However, the evidence from Professor David Bell and ISD Scotland posed tough and important questions. Their concerns deserve full scrutiny and consideration, as do some of the points that were made in the Statistics Commission's evidence.

The quotations from ISD were particularly commendable, honourable, open and indicative of the fact that there is a real problem here in Scotland. It said:

"In ISD's case we find it difficult to steer a neutral course when publishing statistics especially so because most of the statistical collections and new developments have the SE as the main sponsor".

It also stated that

"The SE and Ministers naturally press for any positives to be highlighted",

and that there are

"pressures from policy colleagues to make late changes to publications".

Mr McCabe: It is important to stress that nowhere in the written evidence that ISD submitted to the Finance Committee, or in any other instance that we can find, has any accusation of pressure to distort figures been levelled. It is perfectly legitimate for a senior official or a minister to clarify or question the relevance of statistical productions. There is a clear and important distinction between comment and pressure to distort.

Jim Mather: I will give a full response to that point, which I have factored into my speech.

The concerns of David Bell have particular resonance and deserve a better solution. He, too, highlighted the proximity of statisticians and analysts to their policy clients. In essence, he made the point that the agenda of statisticians is determined solely by their policy clients. He also pointed out the dangers of stagnation of Government statisticians through civil service seclusion, which is again determined solely by their policy clients. To his immense credit, he did not think that the current proposals would give us what we want. I put it to the minister that it will be largely business as usual, with the chief statistician for Scotland continuing to report to and be responsible to the Scottish Executive, which will remain his employer.

The bottom line is that, at a time when Scotland is falling off the radar on the International Institute for Management Development's world competitiveness index, we need comprehensive statistics in which we can have as much confidence as we can muster. That means that our statistics must be produced in an effective and objective fashion that is likely to maximise both their trustworthiness and their usefulness. The legislative consent motion and the current proposals will not do that. Rather, they risk further eroding public trust in Government statistics and devaluing our overall brand with investors. That is of the utmost importance: the presence of credible, effective institutions is critical to building and maintaining a nation's reputation. As Professor John Kay has written, reputation is a powerful mechanism, but only external supervision can ensure that reputations are not only earned but deserved.

Consequently, we recommend to members that the legislative consent motion be rejected; that we take further evidence on or conduct a full inquiry into statistical production in Scotland; and that we set up a Scottish board that would act, perhaps, as a subset committee to the proposed UK statistics board to ensure that the statistics that are produced by the Scottish Executive and other bodies are closely scrutinised for comprehensiveness and quality.

16:35

Derek Brownlee (South of Scotland) (Con):

There are two fundamental questions to address. First, do we adhere to the policy that underlies the Westminster bill? Secondly, is the LCM the right route to take?

According to most people, the broad direction of the policy is right. Indeed, most of the criticism that has been levelled at the bill is that it does not go far enough. That argument has weight, but we should still concede that the bill represents some progress.

However, is supporting the LCM and passing the matter into Westminster's hands the best way of securing independence in the production of statistics? The minister and Jim Mather emphasised the need for the independence of and credibility in statistics. I am sure that, no matter what our political direction might be, we all accept that the more credible the statistics are and the more independent they are seen to be, the better our debates will be.

Margo MacDonald (Lothians) (Ind): I do not query the validity of the member's basic theory. However, why should we be so suspicious of our objectivity in Scotland but accept the objectivity of a body in England?

Derek Brownlee: The member makes a perceptive point. I am not saying that we should doubt our own objectivity or that we cannot have a Scottish system. Indeed, a very persuasive argument in that respect was put forward in last year's parliamentary debate on statistics, to which Jim Mather referred.

I confess that the evidence that was submitted to the Finance Committee in its consultation overwhelmingly supported taking the LCM route. However, I have particular issues with the consultation. The consultation document was issued on 11 December 2006 with a deadline of 9 January 2007 for responses to the parts with which we are dealing today. It is simply not acceptable to give people less than a month to respond to a consultation, particularly given the fact that the period included the Christmas holiday. I am concerned that, as a result, the responses that we received might not reflect the true balance of opinion over whether this route is the right one.

Because we do not feel that the consultation has been adequate, we simply cannot support the motion. The Deputy Minister for Finance, Public Service Reform and Parliamentary Business said in evidence to the committee that the timescale had to be very tight because of the Queen's speech. However, although it appears that matters have been driven largely by the timetable at Westminster, the minister also said that officials had been liaising with officials in London for some

time. Therefore, it cannot have been a surprise that a Statistics and Registration Service Bill would come up in the Queen's speech, and something could have been done to consult on the bill or, indeed, on its broader principles either before or immediately after it. Because of those flaws in the consultation process, we cannot accept the motion.

16:38

Mr Andrew Arbuckle (Mid Scotland and Fife)

(LD): As far as I and the Liberal Democrats are concerned, this legislative consent memorandum will give us the benefits of being part of a larger organisation while ensuring that there is a robust Scottish dimension to its work. At the moment, the Scottish Executive is involved in about 20 per cent of the Office of National Statistics's sphere of work. Additionally, the office carries out specific work for the Executive. As the minister said, by taking this route, we will be able not only to link into a wider base of expertise using common base figures, but to provide a specific Scottish dimension that relates to the Scottish Parliament's spheres of work. Moreover, as part of a larger body, we will have access to a wider range of experts than we would do with a Scotland-only body.

The board will be able to collect information on reserved or devolved matters for the purpose of the production of UK-wide statistics, but the consent of Scottish ministers will be needed before its UK powers can be used in relation to devolved matters. Scottish ministers will have a power of direction if there is any failing in the provision of Scottish statistics.

The primary intention of the Statistics and Registration Service Bill, which is to create an independent statistical service, is admirable. It was shocking to discover from the bill's background material that fewer than one in five members of the population believes that there is no political interference in statistics. That situation applies both north and south of the border and we must address it.

I was surprised by Jim Mather's bad attack of negativity about what is proposed, which again reveals the separatist nature of the Scottish National Party. So intent are its members on their independence ideal that they seem unable to grasp that there are benefits to being part of a larger organisation.

16:41

Mr McCabe: I will be very brief. Unlike my colleague Mr Arbuckle, I am not surprised by the SNP's approach, but I am saddened by it. Regardless of the importance of what we discuss,

for the SNP everything comes back to a single issue—Scotland's independence. If SNP members were as keen to talk about independence at hustings as they are to relate every issue that we discuss in the Parliament to it, they would find themselves being exposed even more readily than they are already. That will be our job in the months to come and I assure the SNP that we will do it with some confidence.

Margo MacDonald: I am quite happy to talk about independence if the minister wants to. From the point of view of the holistic nature of governance, it would be preferable to have a statistical office here in Scotland than to have to depend on someone else's. What is more, instead of having to tap into resources that can be accessed only south of the border, why cannot we buy them in? We might want to get some Swedish statisticians to do some work for us; we could buy them in, too.

Mr McCabe: In her intervention on Derek Brownlee, the member mentioned that there might be a suspicion about our own objectivity. There is no question of that. The fact is that the establishment of an independent scrutiny board—it is as if the words "independent scrutiny" have been lost on the SNP and, sadly, on some other members—will allow us to maintain consistency throughout the United Kingdom. Whether some people like it or not, we are an integral part of the UK. No one can deny that the setting up of the board will give us access to a wider pool of statistical expertise. It will also ensure greater consistency in the adherence to international standards. All those issues are important if we are genuinely interested in raising the public's confidence in officially produced figures.

As I have said, it is simply beyond me how the creation of a statutorily independent scrutiny board can be seen to undermine public confidence. The thrust of the policy initiative is to enable us to demonstrate to the public that statistical information is produced and scrutinised independently. The Statistics and Registration Service Bill will allow that to happen. That is why we in the Scottish Executive believe that it is right to support the bill that is being considered by the Westminster Parliament.

The Deputy Presiding Officer: That concludes that item of business. The next item of business is decision time, so I suspend the meeting until 5 pm.

16:44

Meeting suspended.

17:00

On resuming—

Decision Time

The Presiding Officer (Mr George Reid): Up to nine questions will be put as a result of today's business. In relation to this morning's debate on green procurement, if the amendment in the name of George Lyon is agreed to, the amendment in the name of Murdo Fraser will fall. In relation to this morning's debate on Scottish Water, if the amendment in the name of Sarah Boyack is agreed to, the amendment in the name of Murdo Fraser will fall.

The first question is, that amendment S2M-5494.4, in the name of George Lyon, which seeks to amend motion S2M-5494, in the name of Patrick Harvie, on green procurement, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (Lab)
 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)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)

Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 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)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brownlee, Derek (South of Scotland) (Con)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fabiani, Linda (Central Scotland) (SNP)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 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)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Morgan, Alasdair (South of Scotland) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Petrie, Dave (Highlands and Islands) (Con)
 Robison, Shona (Dundee East) (SNP)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)
 Sheridan, Tommy (Glasgow) (Sol)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Tosh, Murray (West of Scotland) (Con)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Watt, Ms Maureen (North East Scotland) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

ABSTENTIONS

MacDonald, Margo (Lothians) (Ind)

The Presiding Officer: The result of the division is: For 57, Against 49, Abstentions 1.

Amendment agreed to.

The Presiding Officer: The second question is, that amendment S2M-5494.3, in the name of Richard Lochhead, which seeks to amend motion S2M-5494, in the name of Patrick Harvie, on green procurement, as amended, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fox, Colin (Lothians) (SSP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 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)
 McFee, Mr Bruce (West of Scotland) (SNP)
 Mitchell, Margaret (Central Scotland) (Con)
 Morgan, Alasdair (South of Scotland) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Watt, Ms Maureen (North East Scotland) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brown, Robert (Glasgow) (LD)
 Brownlee, Derek (South of Scotland) (Con)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Eadie, Helen (Dunfermline East) (Lab)

Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Finnie, Ross (West of Scotland) (LD)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (Lab)
 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)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 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)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, John (Ayr) (Con)
 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)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

ABSTENTIONS

MacDonald, Margo (Lothians) (Ind)
 Sheridan, Tommy (Glasgow) (Sol)

The Presiding Officer: The result of the division is: For 33, Against 72, Abstentions 2.

Amendment disagreed to.

The Presiding Officer: The amendment in the name of Murdo Fraser falls.

The third question is, that motion S2M-5494, in the name of Patrick Harvie, on green procurement, as amended, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (Lab)
 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)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 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)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brownlee, Derek (South of Scotland) (Con)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fabiani, Linda (Central Scotland) (SNP)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McGregor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Morgan, Alasdair (South of Scotland) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Petrie, Dave (Highlands and Islands) (Con)
 Robison, Shona (Dundee East) (SNP)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)
 Sheridan, Tommy (Glasgow) (Sol)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Tosh, Murray (West of Scotland) (Con)
 Watt, Ms Maureen (North East Scotland) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

ABSTENTIONS

MacDonald, Margo (Lothians) (Ind)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)

The Presiding Officer: The result of the division is: For 58, Against 47, Abstentions 2.

Motion, as amended, agreed to.

Resolved,

That the Parliament recognises the Scottish Executive's record on sustainable/green procurement; notes that Scottish-specific guidance on sustainable procurement for public sector buyers and sellers is available on the Executive's website; notes that the Executive has issued best practice guidance on sustainable procurement, including a contribution to the best value toolkits, to local authorities and public bodies, and welcomes the contribution which public procurement has made, and will continue to make, to the achievement of the partnership commitments to a successful, sustainable Scotland.

The Presiding Officer: The fourth question is, that amendment S2M-5510.2, in the name of Sarah Boyack, which seeks to amend motion S2M-5510, in the name of Mark Ruskell, on Scottish Water, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (Lab)
 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)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 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)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brownlee, Derek (South of Scotland) (Con)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fabiani, Linda (Central Scotland) (SNP)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 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)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Morgan, Alasdair (South of Scotland) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Petrie, Dave (Highlands and Islands) (Con)
 Robison, Shona (Dundee East) (SNP)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)
 Sheridan, Tommy (Glasgow) (Sol)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Tosh, Murray (West of Scotland) (Con)
 Watt, Ms Maureen (North East Scotland) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

ABSTENTIONS

MacDonald, Margo (Lothians) (Ind)

The Presiding Officer: The result of the division is: For 58, Against 48, Abstentions 1.

Amendment agreed to.

The Presiding Officer: The amendment in the name of Murdo Fraser falls.

The next question is, that motion S2M-5510, in the name of Mark Ruskell, on Scottish Water, as amended, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)

Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (Lab)
 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)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 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)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brownlee, Derek (South of Scotland) (Con)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fabiani, Linda (Central Scotland) (SNP)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)

Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 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)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Morgan, Alasdair (South of Scotland) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Petrie, Dave (Highlands and Islands) (Con)
 Robison, Shona (Dundee East) (SNP)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)
 Sheridan, Tommy (Glasgow) (Sol)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Tosh, Murray (West of Scotland) (Con)
 Watt, Ms Maureen (North East Scotland) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

ABSTENTIONS

MacDonald, Margo (Lothians) (Ind)

The Presiding Officer: The result of the division is: For 57, Against 48, Abstentions 1.

Motion, as amended, agreed to.

Resolved,

That the Parliament welcomes the substantial improvements that have been made in Scottish Water's performance, all of this having been achieved while keeping Scottish Water in the public sector; recognises that the objectives set by ministers for 2006-14, which properly recognise the social and environmental priorities of the Scottish Executive, will not only deliver further improvements in drinking water quality, environmental protection, and customer service but also relieve development constraints, upgrade the water and sewerage system and reduce leakages; recognises that the role of the Water Industry Commission for Scotland is to assess the lowest reasonable overall costs of delivering the objectives that ministers have specified, taking account of appropriate external benchmarks, and affirms that Scottish Water operating in the current regulatory framework will go on to deliver further improvements in this vital public service.

The Presiding Officer: The next question is that motion S2M-5360, in the name of Cathy Jamieson, that the Parliament agrees to the general principles of the Rights of Relatives to Damages (Mesothelioma) (Scotland) Bill, be agreed to.

Motion agreed to.

That the Parliament agrees to the general principles of the Rights of Relatives to Damages (Mesothelioma) (Scotland) Bill.

The Presiding Officer: The final question is that motion S2M-5467, in the name of Tom McCabe, on the Statistics and Registration Service Bill, which is United Kingdom legislation, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (Lab)
 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)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 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)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Davidson, Mr David (North East Scotland) (Con)
 Fabiani, Linda (Central Scotland) (SNP)
 Fox, Colin (Lothians) (SSP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 MacDonald, Margo (Lothians) (Ind)
 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)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Morgan, Alasdair (South of Scotland) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Sheridan, Tommy (Glasgow) (Sol)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Watt, Ms Maureen (North East Scotland) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

ABSTENTIONS

Aitken, Bill (Glasgow) (Con)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brownlee, Derek (South of Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Goldie, Miss Annabel (West of Scotland) (Con)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Petrie, Dave (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Tosh, Murray (West of Scotland) (Con)

The Presiding Officer: The result of the division is: For 57, Against 36, Abstentions 14.

Motion agreed to.

That the Parliament agrees that the provisions of the Statistics and Registration Service Bill, introduced in the House of Commons on 21 November 2006, which relate to statistics in Scotland and which are within the legislative competence of the Scottish Parliament or which confer functions on the Scottish Ministers, should be considered by the UK Parliament.

Cervical Cancer

The Deputy Presiding Officer (Trish Godman): The final item of business today is a members' business debate on motion S2M-5359, in the name of Ken Macintosh, on cervical cancer and the human papilloma virus vaccine. The debate will be concluded without any question being put.

Motion debated,

That the Parliament welcomes the licensing of the first vaccine against strains of the human papilloma virus (HPV) responsible for around 70% of cases of cervical cancer; expresses its concern that, despite a 40-year history of cervical screening in the United Kingdom, almost 3,000 women are diagnosed and 1,000 women still die of cervical cancer each year in the UK; recognises that the vaccine will not prevent all cases of cervical cancer and that it is not known whether it will prevent cancer in women already infected with HPV; therefore believes that the cervical cancer screening programme should be continued and that further action should be taken to increase the take-up of screening in more deprived areas, among ethnic minority groups and among women with learning difficulties; further believes that this will improve early detection and allow earlier treatment of this disease; recognises the role of charities such as Jo's Trust, Cancerbackup and Cancer Research UK, amongst others, in supporting patients with cervical cancer and their families and in counselling the thousands more women who worry about their health following an abnormal smear result; recognises the huge potential benefits to be had through vaccination in East Renfrewshire and throughout Scotland from reducing the incidence of cervical cancer, reducing the number of colposcopies, reducing the number of abnormal smears and reducing the number of people requiring treatment for genital warts; further recognises the success of the Scottish Executive in its public health campaigns and cancer prevention strategies, and considers that ministers should put in place measures to raise awareness and to prepare for a vaccination programme.

17:09

Mr Kenneth Macintosh (Eastwood) (Lab): I thank all the members who are present for the debate and the 50 or so members who have signed the motion on cervical cancer and the human papilloma virus. I also thank the many individuals, organisations and charities such as Jo's Trust and Cancer Research UK that have helped to improve our understanding of the disease and have campaigned long and hard to tackle the scourge of cervical cancer. Some of them are represented in the public gallery.

As it comes at the end of European cervical cancer prevention week, the debate in the Scottish Parliament is a timely contribution to the continuing campaign. I hope that it will lead to further action from the Executive—and throughout the United Kingdom—that could dramatically improve health outcomes for women throughout the country.

The stark facts are worrying. In 2005, 127 women in Scotland died from cervical cancer and more than 1,000 died throughout the UK. That is more than 20 women every week. They are often young women who leave behind children and families. On top of that devastation to people's lives are the misery, pain and distress of radical surgery for thousands more and the anxiety and upset that all those who have an abnormal smear result experience.

In the past two decades, the cervical cancer screening programme has made a huge impact on reducing these unnecessary deaths, but there were deeply worrying news stories just last week that the number of women, particularly young women, who attend for their smear has fallen off. In Scotland, every woman between 20 and 60 is invited to have a smear test every three years, but only four in every five women take advantage of the programme. Uptake is poorer among deprived communities and among groups that are difficult to reach or disadvantaged, such as some ethnic minority groups or women with learning difficulties. As members can imagine, those women suffer proportionately higher mortality rates as a result. I will return to screening shortly.

One of the most exciting developments in cancer treatment in recent years has been the production of a vaccine—in fact, more than one vaccine—against the human papilloma virus that causes cervical cancer. One of the vaccines—Gardasil—is on the market, and another—Cervarix—is expected to be licensed imminently.

Those of us who talk about or discuss cancer regularly know how dangerous it is to raise false expectations—to talk of breakthroughs, magic bullets or cures for cancer—but there is no doubt that the vaccine is one of the most tremendous developments of recent years. For example, Gardasil targets four human papilloma virus types that are responsible for cervical cancer, for pre-cancerous lesions of the cervix and vulva and for genital warts, and it is 100 per cent effective against two of those viruses, which are responsible for almost three quarters of all cases of cervical cancer in Europe.

The vaccines have shown themselves to be so successful that their licences have been fast-tracked, because to deny them to the wider population would be unethical. It is essential to make those vaccines available to the next generation of young women through the national health service as soon as possible.

Shona Robison (Dundee East) (SNP): The member will be aware that the Joint Committee on Vaccination and Immunisation—I hope that I have got the name right—will have its next meeting on 14 February. Does he agree that an opportunity

exists for a decision to be made so that we can adopt a programme as speedily as possible?

Mr Macintosh: I agree whole-heartedly. The member has identified one course of action on which we can press the minister.

The JCVI has still to decide on the vaccination programme; I believe that that is a question not of “if” but of “when”. Many are anxious about the long time that the JCVI is taking to decide on the availability of the new vaccines. With every passing month, we miss out on the opportunity to protect thousands of young women.

However, it is important that the joint committee reaches a fair and balanced decision. It should be made clear to the JCVI that there is no shortage of public or political support for a vaccination programme that is aimed at eradicating cervical cancer for the majority of women, if not all, in the next few years. As Shona Robison said, the joint committee next meets on 14 February—on Valentine's day. I ask the minister to undertake to forward a copy of today's debate to that committee so that the views of members of the Scottish Parliament and of the Scottish Executive are brought to its attention.

In the meantime, it is important that the Scottish Executive begin preparatory work. I give no credence to the scare story that making such cancer vaccines available to pre-teen girls and boys will in any way encourage sexual activity. No evidence supports that. The churches have reacted positively and by far the majority of the parents who have been surveyed have taken an eminently sensible and welcoming approach to the vaccine. There is no doubt that an education and awareness programme would need to precede introduction of the vaccine. I see no reason why the Scottish Executive could not start work on that now.

If the potential for the HPV vaccine has yet to be realised, the impact of cancer screening is already known. The Scottish Executive needs to take action now to raise awareness of the importance of having a smear test. We know that, with all cancers, early detection is the key to successful treatment. Nothing prevents us from doing more to convey that message now. Even if it is fully implemented, the HPV vaccine will not work for all women and a screening programme will be needed for at least the next 20 years, or until we create herd immunity against this deadly virus.

I began the debate by reminding members that more than 20 women die every week as a result of this preventable cancer. I will close with the words of Laura Mackay, a supporter of Jo's Trust, who spoke to members about her experience of cervical cancer at the Scottish Parliament just last week, so that we and others could learn from it.

Laura said:

"I cannot emphasise enough the feeling of isolation and fear that comes with a cancer diagnosis, especially cervical cancer. I thought I was going to die. For a couple of years I was in that very dark, horrible and lonely place. I completely withdrew myself from my friends and my family and that was mainly not because it was cancer but because it was cervical cancer and I felt people didn't want to know. For you looking at me today you have absolutely no idea—no idea—of the surgery that I have had and what I have to live with for the rest of my life. By providing this vaccine for free it is giving women OF the future A future. Giving them life options—fertility. Providing this vaccine free is going to save lives."

I thank members for supporting the motion.

17:16

Christine Grahame (South of Scotland) (SNP): I congratulate Ken Macintosh on securing this very important debate and on his commitment to the cross-party group on cancer. I do not know whether Shona Robison, who has a constituency engagement, will be able to stay for the whole debate, so I shall press on.

The most recent parliamentary answer on deaths from cervical cancer reveals that, in 1975, 55 per cent of deaths were in the age group 60 and over, 44 per cent were 30 to 59, and 0.8 per cent were under 30. It is the latter group that we must consider, because the written answer went on to show that although the figures for 2004 remained fairly static for the first two groups—60 and over, and 30 to 59—the figure for the under-30s had risen to nearly 4 per cent. Ken Macintosh properly focused on that increase. I fully endorse what he said. The vaccine is not, as it were, a magic bullet—the intention is not to mislead people—but neither is it an endorsement of promiscuity. It will not accelerate promiscuity; it is an example of something that can be used to help women, indeed to prevent them dying.

The vaccine is not the complete solution. Every year, more than 500 women in Scotland are diagnosed as having cervical cancer. It must be a dreadful diagnosis, but it is not the end for all—although about 100 do die. Because of the high level of underage sex to which I have already referred, the incidence among younger women is increasing. More than 30 per cent of girls aged 15 are sexually active. The solution is a mixture of addressing the vaccine and looking at behaviour. I note what Ken Macintosh said about the vaccine and I understand that different ones are available. I do not know the technicalities but, so far, the one to which he referred has been effective.

Shona Robison mentioned delay. I understand that the JCVI first met to discuss the vaccine on 25 October. Ken Macintosh's comment that it is a question not of "if" but of "when" gives me even more concern about a delay. I hope that the

minister will address that. I understand that Austria is already running the programme and that the Nordic countries have committed themselves to it. As Ken Macintosh says, delaying this any further will unnecessarily cost lives. A woman's death impacts on the entire family.

As Ken Macintosh said, take-up of the smear test has been falling off. Perhaps familiarity breeds contempt, but it is terribly important that even with a national vaccine programme the Scottish screening programme should continue. Perhaps the minister will advise us how he will ensure people take up the invitation from their general practitioner to attend for a smear test. As we all know, the sooner cervical cancer is detected, the less invasive the treatment and the higher the chance of survival. That is important.

It is interesting that when mothers were asked whether they would allow their daughters to have the vaccine, 75 per cent said that they would. There is therefore parental consent for the vaccine, which gives the lie to the suggestion that people fear that it would encourage promiscuity.

We do not want to scare people. Most women have the virus most of the time, and most of them will never develop cancerous cells. Nevertheless, it is important that we have screening to detect the virus early and that, if it is detected, we are able to cure it. We should also be able to offer vaccination to prevent its occurrence, when that is appropriate.

I congratulate Ken Macintosh on securing the debate this evening.

17:20

Eleanor Scott (Highlands and Islands) (Green): I am happy to speak in this debate on an issue that I think is going to become a medical hot topic. The first paragraph of the briefing that members have received from Cancer Research UK Scotland states:

"The advent of a vaccine against Human Papilloma Virus (HPV) is a very exciting development for cancer research and cancer prevention. HPV vaccination has the potential to prevent the majority of cases of cervical cancer in the UK."

That makes it sound as though we have solved the problem of cervical cancer, does it not? Unfortunately, the situation is not quite like that. As Ken Macintosh eloquently argued, we need to continue with our screening programme because the effects of the vaccine will take many years to show because it is effective only in preventing infection in young girls who are not already affected. There is no evidence that the vaccine will be effective in eradicating the virus in those who have already acquired it.

Despite our effective screening programme, people still die of cervical cancer. Cervical cancer

accounts for only 1 per cent of cancer deaths, but it is the second most common cancer in women under 35 in the United Kingdom. As Ken Macintosh said, that means that families are left without mothers and so on. That is awful, so we need to continue screening. Although people are being treated for precancerous conditions and are being treated successfully for cancers, screening will still be needed in the long term. I endorse what Ken Macintosh said about ensuring that the screening reaches groups who are traditionally hard to reach and among whom there is lower take-up of screening. The vaccine could, theoretically, prevent 70 per cent of cervical cancers that are directly due to the strains of human papilloma virus against which it will confer immunity. However, there will be some cancers that the vaccine will not prevent.

There are some practical issues on which it would be interesting to see what the JCVI has to say. For example, there is the issue of the age at which the vaccine should be given. It should be given before a girl becomes sexually active—there is no evidence that it will be effective in eradicating the virus when it has already been acquired, so it is not a treatment for people who already have the virus. There is also the question of the length of immunity and whether further doses of the vaccine will be needed. Given that the vaccine will be administered to young people, there is a question about whether the immunity will be lifelong or will need to be boosted.

Another question is whether boys should be vaccinated. Ken Macintosh talked about herd immunity, so the question arises whether we should be attempting to eradicate the virus from the population. Most immunisation programmes attempt to do that, so I think it would be more logical to vaccinate boys and girls. There is also the question of whether a catch-up campaign should be instituted and who should be part of it, given that it would probably not be effective for people who already have the virus.

Acceptability has been touched on. I am encouraged that the research so far suggests that the vaccine will be widely acceptable. In the past, there has been concern among parents groups about the number of vaccines that are being given, but that is really about baby vaccines and about many vaccines being given within a short time. I suspect that the HPV vaccine—which I imagine will be given to girls in early adolescence, who will not be being given other immunisations—should be more acceptable.

On HPV's being a sexually transmitted disease and the suggestion that vaccination would encourage unprotected sex, I do not believe that that should be any sort of objection. The goal is cancer prevention. For many years, I helped to

give the rubella vaccine to 12-year-old girls, which was meant not to protect them, but to protect their unborn children. No concern was expressed that the vaccine would encourage them to get pregnant. There are probably one or two people out there who are happy to contemplate their daughters becoming pregnant at a future date, but who cannot ever contemplate their being sexually active. That is a paradox of Scottish society.

There are other issues, such as the cost of the vaccine, which I think is within the limits that Parliament would accept, considering the savings that would be made further down the line. There are, however, costs for poorer countries where the vaccine is really needed—where there is a less-effective screening programme, where more people are dying and where the vaccine will be needed even more than it is in East Renfrewshire.

I very much welcome the debate tonight. I also welcome the on-going discussion and publicity surrounding the vaccine and the national debate that will have to take place in the lead-up to the introduction of the vaccine.

17:25

Dr Jean Turner (Strathkelvin and Bearsden)
(Ind): I thank Ken Macintosh for securing such an important debate.

A lot of good words have already been said, and from the practical point of view of having done cervical screening I want to emphasise that it is most important that screening continues for years to come. It is wonderful to have a vaccine, but it is not a catch-all, and even if everybody agreed to its use, certain people would always slip through the net. For years to come, we will need the important cervical screening programme, which saves lives by itself.

The fact that a cervical screening programme has been established for years is great. Parliament has also passed the smoking cessation legislation. I did not hear anybody mention it, but the harmful chemicals from smoking are found in the cervix and it could be that smoking increases the risk of cervical cancer. As the Cancer Research briefing states, it has also been accepted that smoking reduces the activity of immune cells and cuts the body's immune system.

The contraceptive pill was also mentioned, but we forget that so many people have been on the contraceptive pill. Without going into any detail, that is also something that we have to consider.

We should remember and remind people that cervical screening is better than it used to be. The techniques are better and there are more positive results. There will still be people who have to come back because their screening test has not

proved anything or gives a suspicious result, and we want to ensure that people to come back for repeat smears in that situation.

Mr Macintosh: Does Jean Turner agree that, although the cervical cancer screening programme has been dramatically successful in reducing the number of deaths and in reassuring women about their health, we have recently seen a gentle decline in attendance rates? Matching that, statistics that were published last week show a rise in the past four years in the number of women who have died from cervical cancer in Scotland. Does the member have any suggestions about how we could target the screening programme more effectively?

Dr Turner: Ken Macintosh is right, and I think that it was mentioned that familiarity sometimes breeds contempt. People can just come along and get their smear, but they often believe that, unless something horrible has happened to them, it is never going to happen to them.

That is where the importance of working as a team comes in. In general practice, I depended very much on my health visitors, district nurses and others who had contact with patients. There are people whom we will have great difficulty bringing in for smear tests. Some of the more obvious groups have been mentioned—ethnic minorities and people who have language difficulties. We need to cast the net wider.

We also need to make the place where people are screened a most comfortable place, so that they feel able to speak to the doctors and have confidence in them. A lot more is done at a cervical screening than just the screening, as women can talk about women's issues as well. Money must be kept in cervical screening.

Cancer Research reminds us that it is conducting research into incorporating HPV testing into existing cervical screening programmes to try to find out who is at risk. There is a lot still to be done. It is wonderful to have a vaccine, interesting to read about how it might affect young men, and great to think that parents are willing to have their children vaccinated. However, there is a long way to go before we can say that the vaccine is safe, and there are other ways to catch more people. I thank Ken Macintosh for bringing the debate to Parliament.

17:29

Mrs Nanette Milne (North East Scotland) (Con): I will be fairly brief because a lot of what I was going to say has already been said. I am pleased to have the opportunity to speak, and I add my congratulations to Ken Macintosh on bringing such an important health matter to the chamber.

I had involvement with cervical cancer patients for much of my professional life, initially as an anaesthetist, when they were in my care during diagnostic and therapeutic procedures, and more recently when I was involved in the Grampian oncology research project, which monitored patients' progress from histological diagnosis through treatment to survival or, sadly, on occasion to death. I also helped with trials of chemotherapy in the treatment of patients with advanced cervical cancer, so I have seen at first hand the anxiety and pain that the disease can cause when it is not picked up early.

My medical education and career were both in Aberdeen, and I am proud that the early diagnosis of cervical cancer was pioneered in that city by the late Dr Betty Macgregor, who set up the cervical cytology screening service that has saved so many lives since the 1960s. She and her colleagues were meticulous and skilled in their work, and I was privileged to know them.

We are at an extremely exciting, pioneering time in the history of cervical and related cancers. There is a prospect that they could become history in a decade or two if the vaccines that are being developed against the causative human papilloma virus are as effective as the early trials indicate. Worldwide, they could save the lives of many thousands of people who face the trauma of advanced malignancy in the middle years of their lives.

If a vaccination programme is set up within the next 12 months for all girls who are about to enter their sexually active lives, the incidence of cervical cancer could be cut to almost zero in 20 years or so. As Christine Grahame said, it is encouraging that parental surveys show that there is ready support for such a programme. However, it will be vital to continue with the screening programme in the intervening years and to stress to women that it is important that they attend for cervical smear tests regularly. It is worrying that attendance in Scotland has fallen off in recent years, particularly among young women, most of whom are sexually active from an early age nowadays.

Tonight's debate will help to raise awareness of what is a fairly common disease that is readily curable provided that it is picked up early—ideally, in the pre-cancerous phase. We must continue to keep it in the public eye.

I fully endorse the motion's praise for the charities Jo's Trust, Cancerbackup and Cancer Research UK, which play a vital role in flagging up the importance of early diagnosis during the pre-malignant and totally curable phase of the disease. I also commend the charities' work to support patients who have clinical cervical cancer and their families.

It is important that a vaccination programme is put in place at the earliest opportunity. I hope that the Deputy Minister for Health and Community Care will be able to tell us when that is likely to happen, assuming that the JCVI gives approval on 14 February. I hope that he will do all that he can to keep cervical cancer in the public eye and to encourage young women to take part in the potentially life-saving screening programme that is readily available to them.

17:32

Ms Maureen Watt (North East Scotland) (SNP): I will be brief, because most of what I wanted to say has already been said. I, too, thank Ken Macintosh for bringing the debate to the chamber. As others have said, it is timely, because a decision on the vaccine will be made soon.

It is great that advances in medical science have detected the reasons for cervical cancer and genital warts. The cause seems to be viral, and given that at least one vaccine has been found to prevent cervical cancer, we should take forward the advances in medical science and put them to good use.

As others have said, in the UK three people die from cervical cancer each day. One in three of those who are identified with the disease die from it. If that were the case with flu, an epidemic would be declared and Government ministers would do something about it.

Screening will still be necessary if the vaccine is successful, but we hope that it will be done at longer intervals. Last week, Nanette Milne and I were in talks with Grampian NHS Board, which confirmed that there has been a decline in the take-up of cervical screening. It is not difficult to identify the reasons for that. Someone may make an appointment and then find out that it is not convenient, so they cancel it and make another appointment at another time. The matter slips off the agenda of busy women's lives.

I, too, recently met representatives of Jo's Trust, including a young woman who had recently been diagnosed with and treated for cervical cancer. She spoke movingly about the trauma caused by being told that she had an abnormal smear, the examinations, the invasive surgery and the disruption to her life and that of her wider family. If there is a way of preventing that, surely we should introduce it.

I, too, take on the people who say that the introduction of the vaccine is likely to lead to an increase in sexual activity. I do not believe that that is the case. As part of the sexual health programme, we have to make clear the possibility of picking up STDs. Education on sexual health

will still be necessary. My 14-year-old daughter, who is involved in the peer education programme, has been talking to me about this issue and about the talks that she is giving to others.

It would be remiss of us not to take up the innovation and research that has been done in this area. As others have said, the vaccine is being introduced in other places. In New Hampshire, nine to 26-year-olds are getting it. It should not be left to the well-off, many hundreds of whom are now paying £450 for three doses of the vaccine. The people who need the vaccine most must get access to it. I hope that the minister will give us good news.

17:36

The Deputy Minister for Health and Community Care (Lewis Macdonald): I, too, thank Ken Macintosh for his opening remarks and for bringing this debate to the chamber, and I thank members for their constructive contributions on this important issue.

I am happy to agree to Ken Macintosh's request to draw this debate to the attention of the JCVI before its next meeting and to ensure that it is aware of members' views on this important issue.

As we have heard, cervical cancer is the second most common cancer that affects women. In almost all cases it is caused by a family of viruses called human papilloma viruses. HPV infection happens, as a matter of course, as a result of sexual activity. In most women, HPV causes no long-term harm, but some women are at risk of developing cancer without showing any physical signs of infection.

In that context, the first thing to say about protecting women's health is that the cervical cancer screening programme offers the best protection available to women. We know that if cervical cancer is identified early, treatment can be delivered quickly and survival rates will continue to improve. That is why, although it is important to have a debate about vaccination, it is also important to encourage every woman to take up her invitation to attend for screening. I am grateful to Nanette Milne for reminding us of the pioneering work that was done by Betty Macgregor and her colleagues in Aberdeen. We want to maintain that reputation for leading the way in this area, so we will continue to build on the success of the cervical cancer screening programme in Scotland.

Although Ken Macintosh and other members rightly drew attention to some negative trends, it is also important to recognise as part of the big picture that deaths from cervical cancer declined by 30 per cent between 1995 and 2005, and that the incidence of the disease between 1986 and 2003 fell by 45 per cent. Those trends are

significant and positive. The five-year survival rate for cervical cancer is now 70 per cent, compared with only 54 per cent in 1981. All those positive trends reflect clearly the benefits of early diagnosis through cervical screening, which is key to our continuing approach to dealing with the disease.

NHS Quality Improvement Scotland reviewed the cervical screening programme last year and praised it for delivering “extremely high quality care.” The national uptake target was set at 80 per cent. The level of uptake is still above that target but, equally, as members have said, there has been a slight decline in recent years. That concerns us, and we recognise that action is required. A number of members have asked us to take and support such action.

We have in place a national advisory group on cervical screening, which is closely monitoring uptake rates and will provide advice as appropriate to the Executive and NHS boards on strategies for increasing uptake. NHS boards have a duty continually to assess the needs of their local communities and to target groups in their areas where that is appropriate to increase uptake, particularly, as has been said, among younger women, certain ethnic minority groups and women with learning disabilities.

There are some good examples of local initiatives to tackle low uptake. For example, NHS Lanarkshire is piloting a community health education programme that is focused on deprived areas, and is also working with local learning disability services to improve the uptake of cervical screening. In Fife, women who do not attend screening are issued with leaflets that provide information on their choices as to where they might attend for treatment. The healthy women's project in Lothian is doing similar work. There are other examples throughout Scotland.

Ms Watt: Are any programmes specifically designed for women from ethnic minorities? I know that they find it particularly difficult.

Lewis Macdonald: Yes. I recognise, as has been said by a couple of members, that among certain groups that is an issue. Boards recognise that and deal with it on a case-by-case basis. We continue to expect them and encourage them to do that.

It is worth saying that the approach to dealing with cervical cancer is in the context of dealing with cancer as a whole, and that we are making significant progress in reducing death rates from cancer in Scotland. We are on course to reach our target of reducing the rate for people under the age of 75 by 20 per cent by 2010.

However, we always want to do more and to be more effective. For example, we recognise the importance of providing information to patients

who have cancer and other diseases. We have approved a national framework, which was developed by Citizens Advice Scotland in partnership with the NHS, for the provision of independent advice and support to NHS users, their carers and their families.

Of course, the key proposition in Ken Macintosh's motion relates to the introduction of vaccination. It is worth saying that the United Kingdom has one of the most successful vaccination and immunisation programmes in the world, and advice is provided on a UK basis by the JCVI.

We are currently seeking expert advice from the JCVI on the efficacy and safety of the new vaccines against HPV and the benefits that they may offer. Of course, we do not expect decisions to be taken on introducing those vaccines until the JCVI has fully considered all the evidence and has presented its advice to ministers. We expect it to do that, and we do not wish to press it to make a decision or a recommendation until it has satisfied itself in scientific and medical terms that it has considered all the relevant information. However, we look forward to measures being put in place. In advance of that, work is already being done by, for example, Health Protection Scotland to prepare the way for a positive decision, so that people and NHS systems are ready to act on it at the appropriate time.

It is important that the JCVI carefully considers all the available evidence on HPV vaccines and makes recommendations. However, I reiterate the point that such a development will in no way diminish the central role of the screening programme. I do not want anybody to go away with the impression that the introduction of vaccination would reduce the significance of screening—far from it. Vaccination has no direct relevance for women and girls who are or have been sexually active, therefore detection by the screening programme will remain essential for them.

We will be advised by the JCVI on the potential benefits of vaccination for those who have not been sexually active. I share the view that it can make a real difference to future patterns of risk, disease and mortality. However, the screening programme will continue to be at the centre of everything that we do in reducing the impact of cervical cancer, and we should all ensure that that message is heard loud and clear by women throughout Scotland.

Meeting closed at 17:44.

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