

MEETING OF THE PARLIAMENT

Thursday 8 March 2007

Session 2

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Scottish Parliament

Thursday 8 March 2007

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

Business Motion

The Presiding Officer (Mr George Reid): Good morning. The first item of business is consideration of business motion S2M-5712, in the name of Margaret Curran, on behalf of the Parliamentary Bureau, setting out a timetable for stage 3 consideration of the Protection of Vulnerable Groups (Scotland) Bill.

Motion moved,

That the Parliament agrees that, during Stage 3 of the Protection of Vulnerable Groups (Scotland) Bill, debate on groups of amendments shall, subject to Rule 9.8.4A, be brought to a conclusion by the time limit indicated, each time limit being calculated from when the Stage begins and excluding any periods when other business is under consideration or when a meeting of the Parliament is suspended (other than a suspension following the first division in each of the morning and the afternoon being called) or otherwise not in progress:

Groups 1 to 4: 35 minutes
Groups 5 to 7: 1 hour
Groups 8 and 9: 1 hour 35 minutes
Groups 10 and 11: 2 hours
Groups 12 and 13: 2 hours 25 minutes
Groups 14 to 16: 3 hours.—[*Ms Margaret Curran.*]

Motion agreed to.

Protection of Vulnerable Groups (Scotland) Bill: Stage 3

09:16

The Presiding Officer (Mr George Reid): The next item of business is stage 3 consideration of the Protection of Vulnerable Groups (Scotland) Bill. In dealing with the amendments, members should have with them the bill as amended at stage 2, which is SP bill 73A, the marshalled list, which contains the amendments that I have selected for debate, and the groupings that I have agreed.

For the first division on an amendment, the division bell will sound and proceedings will be suspended for five minutes. The period of voting for that division will be 30 seconds. Thereafter, I will allow a voting period of one minute for the first division after a debate; all other divisions will be 30 seconds.

Section 17—Information relevant to listing decisions

The Presiding Officer: Group 1 is on findings of fact in relation to relevant inquiry reports. Amendment 11, in the name of the minister, is the only amendment in the group.

The Deputy Minister for Education and Young People (Robert Brown): I lodged amendment 11 in response to concerns that the convener of the Education Committee, Iain Smith, expressed about the use of findings of fact of inquiries of the Scottish Parliament for the purposes of making listing decisions. In the bill as introduced, such findings of fact were one of several categories of findings of fact that could be relied on, and people would be barred from challenging them at a later point. The issue is whether an individual should be able to contest those findings of fact when they are under consideration for listing.

The bill identifies certain categories of findings of fact that cannot be contested by an individual who is under consideration for listing, such as findings of fact by a court or in proceedings by a regulatory body. It is important to say that all findings of fact, other than those on which convictions are based, can be contested on appeal against listing.

The point was made to the committee that a Scottish Parliament inquiry operates in a manner that is rather different from what happens in other situations in which findings of fact cannot be contested. For example, the way in which matters are deliberated on and evidence is selected for consideration is rather less like the judicial and quasi-judicial processes of findings of fact that the

bill protects. Furthermore, the individual concerned may not have the opportunity to challenge the findings of a Scottish parliamentary inquiry.

Amendment 11 will take us to a sensible position whereby inquiries of the Scottish Parliament can form the basis of a referral to the central barring unit—it would be unacceptable if that possibility did not exist as a result of a major parliamentary inquiry—but findings of fact by that inquiry will be open to challenge by the individual concerned.

I move amendment 11.

Iain Smith (North East Fife) (LD): Robert Brown has eloquently explained the purpose behind amendment 11, which was lodged in response to an amendment that I lodged at stage 2.

I want to put on record our appreciation of the positive way in which the minister has responded, through the amendments that he has lodged at stage 3, not only to the Education Committee's stage 1 inquiry, but to the points that were raised at stage 2. As a result, these stage 3 proceedings will probably be much easier than we feared they would be some months ago. I thank him for his responses and for accepting the point that I made at stage 2.

Amendment 11 agreed to.

Section 25—Application for removal from list

The Presiding Officer: Group 2 is on removal from list: prescribed period. Amendment 29, in the name of the minister, is the only amendment in the group.

Robert Brown: I thank Iain Smith for his kind words.

Amendment 29 clarifies, in response to concerns that Iain Smith expressed, arrangements for applications for removal from the list. As it is currently drafted, the bill allows ministers to prescribe minimum periods before individuals can apply for removal from the list. The committee's discussion of the matter showed that a certain ambiguity existed.

The amendment clarifies that such periods cannot be prescribed in relation to specific individuals. It means, for example, that ministers cannot specify that John Smith cannot apply for removal for seven years, but that Joe Bloggs has to wait only four years. It was never the policy intention to set specific time limits for particular individuals after listing them. I was therefore happy to lodge amendment 29, which puts the matter beyond doubt.

That said, the minimum period might depend on the circumstances relating to a listing decision. For example, the prescribed period for individuals who

are listed for a childhood offence may be shorter than that for individuals who committed an offence as an adult. However, that will be achieved through regulations that will identify particular sets of circumstances in advance, rather than particular individuals in retrospect.

I move amendment 29.

Iain Smith: The issue has exercised me throughout our consideration of the bill, and I am still not entirely convinced that the wording that the minister has come up with is entirely clear and that no areas of doubt exist.

Section 25(3) states:

"An application for removal from the list is competent only if ... it is made after the end of such period as may be prescribed (beginning on such date as may be prescribed)".

I am still not entirely clear how amendment 29 relates to the words

"such date as may be prescribed".

The problem is that one may want to consider the date on which an offence was committed, rather than when the person was convicted, given that there could be a considerable time lapse between those two dates. If two people were in similar circumstances but one person was convicted more quickly than the other, the person who was convicted more quickly would be able to apply for removal from the list more quickly. There seems to be an inconsistency. I am not sure how one would apply the provisions in the section and the amendment to a time period and a

"date as may be prescribed".

Perhaps the minister will clarify the matter.

Robert Brown: We are getting into a somewhat esoteric dispute about the amendment's wording, but the difficulty that Iain Smith mentioned does not arise.

The amendment states:

"A period may not be prescribed under subsection (3)(a) in relation to a particular individual."

That refers to both prescriptions. The distinction is that which I explained, between prescribing things at the time of listing an individual and laying down circumstances in advance that apply generally to certain classes of people.

Obviously, these matters will be the subject of regulations and any further issues relating to them can be explored during the consultation on the regulations. However, I do not think that the difficulty that Iain Smith fears arises.

Amendment 29 agreed to.

Section 34—Organisations not to use barred individuals for regulated work

The Presiding Officer: Group 3 is on organisations not permitting barred individuals to do regulated work, et cetera. Amendment 1, in the name of the minister, is grouped with amendments 2, 32, 33 and 7.

Robert Brown: Amendment 1 is a more substantive amendment, which relates to one of the key concerns and issues for debate during the bill's passage. Retrospective checking has been hotly debated and the subject of media dispute since the bill was introduced in September. I will therefore highlight what retrospective checking is and why it is such an important issue.

Essentially, under any scheme, such as the existing Protection of Children (Scotland) Act 2003 arrangements, people who come into the workforce are checked when they do so. Obviously, an increasing number of people will therefore be checked, but that still leaves a number of people who are already in the workforce and have not been the subject of checks. Some of those people may have been in the workforce for many years. Clearly, there will be an element of risk if they are not brought into the system, and the extent of that risk and how we should deal with the matter proportionately must be considered. It is reasonably clear that if we introduced retrospective checking within six months or a year of passing the bill, a bulge of people would be added to the system, which could cause a breakdown of arrangements for those at the Government end and for organisations and voluntary groups that must deal with the legislation. By the same token, if it took 20 years to introduce retrospective checking, the issue would be almost incidental.

The technical effect of the amendments will be to move the provisions on retrospection from being commenced by commencement order, in which parliamentary involvement would be very limited, to being commenced by regulations. That will allow us to deal with the issues that have been raised about logistics, administration and cost to organisations and the Executive of including existing employees within the scheme. The amendments follow up the commitment that I made to the Education Committee at stage 2. We have no interest in implementing the scheme in a way that damages voluntary organisations or other organisations.

I recognise that the phased introduction of including the existing workforce within the scheme will be an absolutely critical factor in the successful implementation of the bill. We have always been clear that all aspects of implementation of the bill will be carefully considered and consulted on. During the debates

on retrospection at stage 2 and stage 1, we said expressly that whether and how to proceed, and at what rate and in what order, would be the subject of careful consideration and consultation. I hope that that assurance has been put clearly on record and in my correspondence with the Education Committee.

The amendments will mean that retrospective checking cannot begin until ministers have made regulations that have been approved by Parliament through the affirmative resolution procedure. That allows the maximum possible level of parliamentary scrutiny for what is undoubtedly the most significant issue of controversy in the bill for individuals and organisations across the country.

I am happy to move the amendments because it is in everyone's interest that retrospective checking is commenced in a way that commands widespread support and confidence. The fact that Parliament will be involved through the affirmative resolution procedure will, on top of the statements that I have already made, send a strong signal to whoever may be the minister in a future Administration that the matter can be sorted out only by going through a procedure that involves the parliamentary process and the Parliament's committees in a way that allows maximum scrutiny.

Against that background, I move amendment 1.

Fiona Hyslop (Lothians) (SNP): Amendment 1 is a key amendment in today's stage 3 proceedings as it cuts to the heart of the concerns that have been raised about the bill from the start. The bulk of those who work with children are already in post, but many of the provisions in the bill will affect only those who enter new positions.

Clearly, the issue of retrospective checking has been key to everybody who has been involved with the bill. In particular, the voluntary sector had severe concerns that the retrospection burden could be counterproductive to the needs of child protection and children's services, which are much needed throughout the country. I welcome the fact that the minister has responded to the committee's concerns about the issue.

The Scottish National Party's view was that the bill should have been kept back until the consultation on retrospection had been completed, so that we could see the matter in the round and would know exactly what we were legislating for. However, given that we are at the tail-end of the parliamentary session, we recognise that some of the provisions in the bill as it stands should be introduced.

A key issue regarding amendment 1 is that we expect the consultation to clarify what the costs will be on voluntary sector capacity. It is clear from

the evidence that we received that the statutory sector is geared up and ready to implement retrospection, so I suspect that the regulations should allow the statutory sector to move forward on retrospection more quickly than the voluntary sector.

That cuts to the heart of the issue about what constitutes a proportionate response. The issue is how we ensure that we do not allow loopholes for people who are already in post while ensuring that we have a manageable child protection system. I reiterate that the establishment of a central barring unit for disclosure checks will not, of itself, stop people harming children, but it will prevent those who seek to do so from trying to exploit children in their workplace.

It is important, however, that we recognise the concerns about retrospective checking that were expressed by voluntary sector organisations such as the WRVS. I look forward to a very robust consultation process. The use of the affirmative resolution procedure will place a burden and responsibility on future committees, which will need to deal with the secondary legislation on retrospection as seriously as they deal with primary legislation.

I welcome the minister's response to the committee's concerns on the issue, but it is regrettable that we are in this situation. We know from the implementation of the Protection of Children (Scotland) Act 2003—which was passed at the tail-end of the previous parliamentary session—that retrospection is a problematic issue that needs to be resolved. However, we need to resolve it on an informed basis. The committee asked the minister not to proceed to stage 2 until information on regulations and a further consultation had been provided. Although that was not possible, I believe that any future consultation should be informed by the experience of those organisations, such as Fife Council, that have embarked on retrospection. We should look at the statistics on how many people such organisations have found, as a result of retrospection, who should have been prevented from working with children. We need to consider such issues if we are to come up with a proportionate response.

In that spirit, the SNP will support amendment 1. The amendment provides a positive way forward by ensuring that the Parliament is allowed to conduct proper scrutiny of retrospection when the regulations are laid before the Parliament.

09:30

Lord James Douglas-Hamilton (Lothians) (Con): I agree with everything that Fiona Hyslop said. I believe that the minister has done the Parliament, voluntary bodies and charities a

service by ensuring that affected bodies are consulted on the timescale for introducing retrospective checking and the fundamental character of such checks. I hope that, in the next parliamentary session, the regulations are considered with particular care, as they will be very important.

Donald Gorrie (Central Scotland) (LD): Many of the issues around the bill are to do with proportionality. Rules that may be reasonable to impose on someone who has one-to-one contact with children or vulnerable adults and in situations in which great care needs to be taken should not be applied in exactly the same way to those who are only in the presence of a group of young people along with other adults. There seems to be no proportionality in that way. Can the minister assure us that proper consideration will be given to ensuring the need for proportionality? The role that the individual plays should be taken into account, so that people who are only marginally included in the system are not involved in a lot of bureaucracy.

Can the minister also assure us that the voluntary sector will be given a fair shout when the various people involved are consulted? As has been said, the professional public sector is geared up for retrospective checking because it has lots of officials who can organise such things, whereas many voluntary organisations do not. I would not like the local government sector to outvote the voluntary sector in any consultation. Small voluntary organisations find it harder to come to meetings during the day to discuss such things.

I have great confidence in the minister, but we are being asked to have great confidence in future ministers, and a future Government might have a slightly nutty minister from the flat earth party. We are also being asked to have great confidence in the civil servants. Recently, I was given examples of the rules that civil servants produced following a somewhat similar bill two or three years ago. All those rules were so bad that they had to be totally undone and rewritten. We are being asked to have great faith in people in whom I do not have faith.

Can the minister give some reassurance on those points?

Dr Elaine Murray (Dumfries) (Lab): In response to Mr Gorrie's comments, I think that he has missed the whole point of the amendments. I am extremely pleased to see amendment 1, as I lodged a similar amendment at stage 2 that I did not press because the Executive agreed to reconsider the matter. The entire reason for lodging the amendments in this group is to allow Parliament to have another look at the issue. In doing that, the Executive is responding to concerns that the voluntary sector raised with both the Finance Committee and the Education

Committee. The reassurance that Mr Gorrie seeks is in amendment 1. That is the purpose of it.

The Finance Committee—of which I was a member at the time—had significant concerns about the costs that might arise if retrospective checking was introduced too early. The concern was not just about the cost to the voluntary sector but about whether the system would be able to cope and whether there might be increased costs on the Executive.

Amendment 1 provides all of us with another chance to consider the system that is being introduced. For the subject committee, the amendment reinforces the opportunity—which it would have had anyway—to scrutinise the matter when it considers the regulations. The successor committee to the Finance Committee will have another opportunity to consider the matter because of the powers that that committee has to look at statutory instruments. The committees of the Parliament will be able to reassure themselves about the scheme. The amendment will also allow the voluntary sector, which raised its concerns with us, to be consulted on the implementation of the scheme. For those reasons, I very much welcome the amendment.

I also welcome the fact that the regulations will be introduced under the affirmative procedure, so they will require the approval of the full Parliament. The matter will be considered not just by committees but by the full Parliament. I hope that that will reassure the voluntary sector that the Education Committee and the Executive have listened carefully and responded to the sector's concerns.

Robert Brown: I am grateful for colleagues' comments, but there is an element of overstating the point. As Elaine Murray rightly said, the purpose of amendment 1 is to deal with the issue. I have made strong statements from the start of the bill process about what will happen in relation to retrospection, including the costs. As Fiona Hyslop is well aware, the costs will be consulted on. Nevertheless, perhaps because we are at the tail-end of the present session of Parliament, or perhaps because of wider issues, there is a feeling that, as Donald Gorrie put it, members of the "flat earth party" might take over from Hugh Henry and me in the next session. It is open to the new Parliament to pass a new bill and to take an altogether different approach, if that is what it wants to do. However, there is broad all-party sign-up to the bill's general direction of travel, which is an important reassurance. The statements that Fiona Hyslop, Lord James Douglas-Hamilton, Iain Smith, Elaine Murray and others have made during the bill's passage about the direction of travel show that there is an all-

party commitment to the proposals on retrospection.

When one has been stung by a bee once—the Executive probably was stung by a bee when it was dealing with retrospection under POCSA, although I hasten to add that that was prior to my involvement in the Education Department—it is not a good idea to put oneself beside the bees' nest another time to be stung again. We are well aware of the issues that arise with regard to retrospection, which is a complex, difficult and technically involved procedure. We want to ensure that we get it right. We have given every possible assurance that we will get involved with all the stakeholders. We should bear it in mind that the voluntary sector is involved in the procedure because, when the POCSA arrangements were being considered, that sector wished to be involved and said that it wanted the same protections that were to apply to the statutory sector.

I say to Donald Gorrie that it is a bit of a mistake to think of the voluntary sector as one organisation or as a sector that is made up of organisations with similar characteristics. The voluntary sector is enormously diverse: it has large, national organisations with bureaucracies that are as big as local authority bureaucracies; and it has small organisations that have no bureaucracy at all and which operate locally. Therefore, it is not helpful to view the voluntary sector as one concrete sector that has the same characteristics across the board. The point is that the voluntary sector and other stakeholders, of whatever size and shape, will be involved in the consultation. That will not, as Donald Gorrie suggested, be a matter of voting; it will be about considering the value of the contributions and dealing with the effects on organisations. That is exactly what we have said about the consultation.

As the Education Committee knows, although we have not produced the relevant regulations, we have produced the policy information that will be used to determine the regulations. That has given all stakeholders a flavour of what might be involved. That information sets out the choices on costs, the way in which retrospection will be handled, the timescales and other issues.

The debate has been useful, but I do not want to overstate the issue. We will consult on the issues of retrospection, including whether and how to proceed with it, at what rate and in what order. Everybody who has something to say will be involved in the process. We will take the necessary time over the matter and, I hope, produce measures with which everybody who is concerned is comfortable. In addition, if my assurances as the current minister are not sufficient, we will have reinforcement, or a double

lock, as a result of amendment 1, which will mean that the measures will receive the maximum parliamentary scrutiny. That ought to give as much reassurance as possible to anyone who has a concern about or interest in the matter. I hope that people will take as having considerable standing the assurances from Scotland's Parliament on how we will proceed.

Amendment 1 agreed to.

Amendment 2 moved—[Robert Brown]—and agreed to.

Section 37A—Restrictions on listing in children's list

The Presiding Officer: Group 4 is on the independent barring board. Amendment 3 is grouped with amendments 4, 6 and 10.

Robert Brown: The amendments are relatively technical. During stage 2 consideration, Iain Smith—that man again—asked me to reconsider the references to the independent barring board, which will make barring decisions for England and Wales and Northern Ireland, with a view to making those references easier to follow. Accordingly, the amendments will tidy up the references to the IBB. My briefing note makes considerable play of the difference between acronyms and initialisations, but I will not bore the Parliament with that. The issue is about the standing of initialisations and when the first reference that explains what they mean should appear in the bill.

I move amendment 3.

Amendment 3 agreed to.

Section 37B—Restrictions on listing in adults' list

Amendment 4 moved—[Robert Brown]—and agreed to.

Section 48—Correction of inaccurate scheme record

The Presiding Officer: Group 5 is on the review of information in scheme records. Amendment 30 is grouped with amendment 31.

Iain Smith: The issue goes to the heart of the Bichard recommendations. After the Soham murders, an issue was raised about the failure of police forces to share soft information that they had about people and which could have been used to ensure that those people did not work with children. There is a question whether the Soham murders would have been prevented if that information had been shared, but the issue was raised and led to the Bichard inquiry and thus to the recommendations. In Scotland, we already have ways of sharing such information: POCSA

and the Police Act 1997 allow for enhanced disclosures to include some soft information from police sources, with certain assurances about the reliability of the information. We have heard about the 5x5x5 check that police forces carry out into the reliability and relevance of such information.

By definition, non-conviction or soft information has not been tested in court. Therefore, information may appear on an applicant's disclosure that the applicant did not previously know existed in police records. I have examples of that from my casework. One person who applied for an enhanced disclosure check found out when the certificate came back that there was information that they had been seen to be involved in buying or selling drugs in a pub. The person denies that that ever happened, but the police held the information. The information was not disclosed to the person because the police are always gathering information about drugs activities as part of wider inquiries to try to catch dealers, so the person did not have the opportunity to challenge the accuracy of the information until they found it on their enhanced disclosure certificate. I know that I am not alone in having dealt with such cases. That person may be able to prove that they were not even in the pub when the alleged incident took place. There may have been a malicious allegation. In other cases, the police may hold information that is relevant to child protection, but which is not reliable. For example, a person may have been seen hanging round school gates. That may be true, but they might have a perfectly good explanation for that—for all we know, they might be dating one of the teachers.

There is a lack of clarity about the nature of the appeals that are possible when such information appears on an enhanced disclosure certificate or, under the bill, a scheme record. I am pleased that at stage 2 the Executive lodged amendments to section 48, which is on the correction of inaccurate scheme records, to deal with some of the issues. Section 48 now provides a clear way in which people can deal with two types of situation. The first is when there are issues of factual accuracy. For example, if a person's scheme record says that they have a conviction for speeding, but they do not have such a conviction, they will be able to request that it be corrected and, if there is a refusal to correct the record, the issue can go to the Scottish information commissioner. The second situation is when an issue arises about whether a conviction is relevant to a person's suitability to work with a protected group. There is now a clear procedure in the bill under which such a matter can be referred back to the chief constable, who will review the relevance of the conviction or piece of information to working with the protected group.

A third situation is the one to which I referred earlier, when the issue is the reliability of the non-conviction or soft vetting information that the police hold. The purpose of amendments 30 and 31 is to establish that that type of information is also subject to review by the chief constable under sections 48(4) and 48(5). The intention is to clarify the situation and to ensure that people who think that the police have inaccurate information about them can challenge that information, have it reviewed by the police and, perhaps for the first time, put their case to the police as to why that information is not valid.

I move amendment 30.

09:45

Robert Brown: Iain Smith's point is fairly substantive, and I am grateful to him for raising it. The Executive has had some discussions with him and the Education Committee during the passage of the bill to try to flesh out some of the issues on accuracy.

Through constituency cases, colleagues will be familiar with issues around the information that is provided on an enhanced disclosure. Iain Smith mentioned one or two of the issues that have been raised with him. The Executive lodged amendments at stage 2 to clarify the rights of individuals to review such information and no further amendments to the bill are required. However, I will give members a bit more information about how the system works.

First, national guidance—in the form of a code of practice and a national manual for the recording and dissemination of intelligence material—provides robust arrangements for governing the collection and retention of information. That guidance is the basis of the Scottish police service's policy for the creation, review and weeding of records on the Scottish intelligence database. Information that the police gather is added to the database only after it has been assessed using a standard grading system that is used by all police forces throughout the United Kingdom; the 5x5x5 system grades information according to the reliability of its source, its accuracy and whether the source needs protection.

The 5x5x5 system covers information that is used for police purposes. That is not quite the same as what will end up on a scheme record, but it means that the accuracy of the information has been assessed before it is added to the Scottish intelligence database. That does not mean that information that cannot easily be verified will not be put on the database, but it means that an operational officer who assesses the information

will be aware of its reliability and accuracy and will be able to treat it appropriately for their purposes.

The police have agreed national guidance on the disclosure of non-conviction information under the bill to ensure a consistent approach. That approach is underpinned by a quality assurance framework, which is being piloted in Fife and which will be rolled out to the other seven forces in the coming months. Her Majesty's chief inspector of constabulary for Scotland will audit compliance with the quality assurance framework as part of his regular inspections of forces, the results of which are published.

The amendments that we made to the bill at stage 2 clarified the fact that individuals will be able to ask for a review of non-conviction information that is included on a scheme record on the basis that it is not relevant, as well as on the basis that it is inaccurate. The short answer to Iain Smith's question about whether individuals will be able to challenge inaccuracies of the kind to which he referred is yes. Chief constables will be required to review the information that has been disclosed. If an individual is unhappy with the outcome of such a review, he or she can ask the chief constable for a review under the Data Protection Act 1998. That act is reserved and therefore it is not open to us to amend it, but it is in the background of such situations. If the request to the chief constable for a review under the act fails, the individual can ask the information commissioner—not Kevin Dunion, but the United Kingdom information commissioner, whose job it is to oversee the operation of the Data Protection Act 1998—to conduct an assessment. If the individual's complaint is upheld, the information commissioner can direct the chief constable to amend or delete information if necessary.

That is the broad assurance on the matter, but it may be worth while saying a little bit beyond that. An individual has the right to ask the chief constable for a copy of all information that is held about them, for which a £10 fee is payable. An individual may find out that the police hold information about them by way of an enhanced disclosure but, at any time, they can get a copy of any information that is held on them.

The chief constable is under a duty to ensure that the information that is held about an individual is accurate and is held for purposes that are allowed under the data protection legislation. I have explained that an individual has the right to explain what is wrong with the information, that the chief constable must consider the request for review and that the case could go to the information commissioner for an assessment. If the commissioner thinks that the law has been broken, he will give the police advice and ask them to solve the problem. If there is any dispute,

the information commissioner can issue an enforcement order that requires the police to solve the problem.

An individual also has the right to take the case to court for judicial review following the commissioner's decision. There may be circumstances in which personal data, although inaccurate, accurately reflect information obtained from a third party. In that situation, the court will consider whether the police took reasonable steps to ensure that the data were correct, having regard to the purposes for which they were obtained and processed, whether the individual has notified the police that the data were inaccurate and, if so, whether the data indicate that fact. The court may order the police to amend or destroy the data or may make an order that requires the data to be supplemented by a statement that relates the true facts.

I hope that that provides wider background to this complex and difficult area. My principal point is that there is a procedure, which involves an application to the chief constable to correct or otherwise amend information, then an overview by the information commissioner under the Data Protection Act 1998 and thereafter an appeal to the court.

Iain Smith: I am conscious that the minister is coming to the end of his remarks. Will he assure me that the procedures through which members of the public who have concerns must go to make appeals will be covered by guidance?

Robert Brown: I am happy to give that assurance. The matter is complex. We will come to guidance shortly, but it is entirely appropriate that the links with the Data Protection Act 1998 be referred to in guidance so that the appeal or review mechanisms are clearly described for those who have to operate the bill. That is a central part of the information that we should give people in the guidance that we will draw up on the bill.

Iain Smith: My main purpose in lodging amendments 30 and 31 was to get on the record the information that the minister has given and an assurance that the issues will be covered in guidance. In the light of the minister's response, I wish to withdraw amendment 30.

Amendment 30, by agreement, withdrawn.

Amendment 31 not moved.

Section 60—Power to use fingerprints to check applicant's identity

The Presiding Officer: Group 6 is on fingerprints. Amendment 12 is grouped with amendments 13 and 28.

Robert Brown: During stage 2 consideration, I agreed to consider further the provisions in the bill

that relate to the use of fingerprints to confirm the identity of scheme members and applicants to the scheme. The committee was rightly concerned to limit the taking of fingerprints to circumstances in which it was absolutely necessary. Such a power already exists in the Police Act 1997 in respect of enhanced disclosure but is used very infrequently. Amendments 12, 13 and 28 tighten the provisions in the bill and the 1997 act to allow ministers to use fingerprints for the purposes of identity checking only if the other forms of evidence that are provided are insufficient. In essence, fingerprints will be used only as the method of last resort for confirming identity.

I move amendment 12.

Iain Smith: I thank the minister for responding to the issues that were raised at stage 2. My concern at that stage was that the bill could allow for the taking of fingerprints to confirm identity to become routine rather than remain the exception, and I am pleased that amendments 12, 13 and 28 clarify that it would be used only in exceptional circumstances in which no other means of identification was sufficient to guarantee that the person was who they said they were. I welcome the amendments.

Amendment 12 agreed to.

Amendment 13 moved—[Robert Brown]—and agreed to.

Section 64—Unlawful requests for scheme records etc

The Presiding Officer: Group 7 is on unlawful requests for scheme records: permitted purpose. Amendment 35 is the only amendment in the group.

Robert Brown: Despite the smallness of amendment 35, the matter that it addresses is not unimportant. Members of the Education Committee will recall that we lodged amendments at stage 2 to allow contracting bodies to ask to see disclosure certificates for a contractor's employees. Those amendments were made with school transport services in particular in mind. I do not know why East Renfrewshire is always central to such matters, but an example from there had been in the public domain.

The stage 2 amendments allow, for example, a council to ask to see the scheme record disclosures of the employees of a bus company that provides school bus services. However, as I informed the committee at the time, there will be no obligation on any individual to consent to such a request. As the power was only that contracting bodies could ask to see disclosure records, I considered that it was unlikely to be controversial. However, a number of voluntary sector service

providers have since expressed serious concerns about the provision.

Jackie Baillie (Dumbarton) (Lab): The minister has acknowledged that voluntary organisations that provide regulated care services on behalf of local authorities have raised concerns that powers in section 64 could be used to allow commissioning authorities to override their recruitment decisions. Such concerns have been raised with me as well. Will the minister reassure me that that is not the intention of the stage 2 amendment by clarifying what circumstances he envisages will be prescribed in future regulations?

Robert Brown: I am grateful to Jackie Baillie for her intervention. It is not the policy intention to allow commissioning authorities to override recruitment decisions, and the bill provides no such mandate, with or without amendment 35.

A general issue that the Education Committee considered was how to prevent public authorities from gold plating the provisions in the bill as a self-protective mechanism. Something of that spirit lies behind some of the issues under consideration. I will explain further the background to amendment 35.

The voluntary sector service providers that have been in contact with me and with officials—and, I am sure, with Jackie Baillie and other members—have expressed particular concerns about the implications for compliance with employment law and contract renegotiation. A number of those concerns were valid, which is why we lodged amendment 35. However, we did not want to lose the bill's flexibility in its entirety because it is clear that there are some circumstances in which it is appropriate for the contracting body to be able to ask to see the contractor's employees' scheme records. We need to have detailed discussions on implementation with the Convention of Scottish Local Authorities and the service providers that have an interest in the issue before it can be finally resolved.

Amendment 35 will give ministers a power to prescribe in regulations the circumstances in which it would be appropriate for a person other than the employer to be able to ask to see scheme record disclosures. As is the case with other significant regulations in the bill, we will formally consult on any such regulations made under that power. The bodies that are consulted will include contracted service providers, councils and COSLA, in particular. That will give us the opportunity to consider a difficult and complicated area in full and to avoid unintended consequences.

I hope that members will support amendment 35, which the Executive lodged in response to the concerns of stakeholders. The development of the

amendment is a good example of parliamentary consideration progressing the argument and arriving at a reasonably sensible outcome.

I re-emphasise that it is not the policy intent to allow recruitment decisions to be overridden. I do not want to prejudge the consultation, but it might be possible to make a distinction between transport providers, who might be said to have expertise in transport but not in child protection, and voluntary sector providers who provide a child protection or child enhancement service of some sort, in relation to which the issue is rather different. We are certainly not in the business of trying to implement a double lock, whereby double checks would be necessary. Our aim is quite the opposite—the thrust of the bill is about simplifying procedures and making the process more manageable and moveable for the people on the ground who will be affected by it. I hope that that provides members with reassurance on the background to amendment 35 and section 64.

I move amendment 35.

Fiona Hyslop: I welcome the minister's comments, which have clarified the Executive's policy intention. Further consideration of the matter will take place when the guidance is issued, which will deal with the prescribed circumstances in which such a request would be made. We will have to wait and see what comes out of that. The minister has clarified the policy intention.

The voluntary sector cannot be seen as one amorphous body, because in addition to small organisations that are about volunteering, it includes very large organisations that are commissioned by local authorities and health boards to provide services to children and to vulnerable adults. In that context, issues about the contract and servicing come into question, especially given that all the criminal sanctions in the bill relate to the responsibility of employers. In the circumstances that we are considering, the voluntary sector organisations are the employers and the statutory sector organisations are the commissioners. We must recognise that the thrust of the bill is to place on voluntary organisations the responsibility to ensure that they have their own records in place.

I suspect that, in commissioning services from the voluntary sector, the statutory sector would include as part of the service requirements that the voluntary sector organisation concerned should have robust child protection arrangements. However, again the issue comes back to trusting independent organisations in the voluntary sector not only to have robust recruitment procedures in place, but to have the vigilance, when providing services, to identify when an individual might pose a risk to a child or to a vulnerable adult.

The minister's comments will go some way to alleviating the concerns of the voluntary sector. He is right to say that the attempt to see off a specific concern about school transport—in relation to which child protection or support for vulnerable adults is not the prime aim of the organisations that provide such services—has kicked off another concern. The guidance on the subject will be vital and, again, the consultation on it will be imperative.

10:00

Robert Brown: I want to make one observation in reply, which relates to the purpose of section 64. Section 64 does not open up all sorts of things. It says specifically:

"It is an offence to request provision of, or to otherwise seek sight of, a disclosure record for a purpose other than the permitted purpose."

In a sense, amendment 35 will widen the chink very slightly. We are not criminalising all requests for such information in circumstances in which that would not be appropriate.

The wider issue, which might not be covered directly by section 64, can be dealt with under the guidance and the prescribed permitted purpose. In addition to the issues that we have discussed today, that will cover the background in complex areas of employment law, tendering and service specification. Amendment 35 will give us the power to get the right balance, in consultation with the people in the sector who will be affected.

Amendment 35 agreed to.

Section 67—Fees

The Presiding Officer: Group 8 is on fees. Amendment 36, in the name of Lord James Douglas-Hamilton, is grouped with amendments 14, 19 and 37.

Lord James Douglas-Hamilton: Amendment 36 seeks to relieve the understandable concerns of the voluntary sector about the costs of the new scheme. Those concerns have been ably channelled through the Scottish Council for Voluntary Organisations.

The SCVO has asked for amendment 36, which would secure in statute the current free checks for volunteers. As a new development, it would also waive fees for vetting paid staff in the voluntary sector, which would be particularly welcome during the initial phasing-in period of retrospective checking because the set-up cost is a particular worry. On the basis that the phasing-in period is likely to be three years, the SCVO has estimated that the total set-up cost will be £24 million, £3 million of which will be to pay fees for vetting the 120,000 paid staff who work in the voluntary

sector. Although the Executive disputes the total of £24 million, I understand that the forecast of £3 million for fees is perfectly reasonable. Given that £3 million is a lot of money for voluntary organisations to find over a short period and that, furthermore, it is part of a considerably larger cost, amendment 36 asks that it be eliminated.

Amendment 36 also seeks to have fees for on-going checks waived once new retrospective checking has been completed. I concede that fewer on-going checks may be conducted than is the case at present, but the cost of a check has increased by 47 per cent in the year since the introduction of the outgoing Protection of Children (Scotland) Act 2003 regime. The indications are that the introduction of the new system will, at a stroke, increase the cost of a full check by 30 per cent. On the basis that such increases may continue, I believe that there is a strong case for the voluntary sector to be considered for exemption.

I applaud the minister's commitment to continuing to pay the costs of checking volunteers who work in the sector, but I feel that the distinction between volunteers and the paid staff who work alongside them is somewhat artificial in the context of checks. In practice, any fee that is levied on a paid member of staff will still be borne by the voluntary group. It is a mistake to assume that if a voluntary organisation can afford paid help, it is somehow able to bear the same financial burden as a public sector body. Given the importance of the issue, and to safeguard against the actions of a future, less reasonable, minister, I ask that consideration be given to including the necessary provision in the bill.

Amendment 37 would introduce use of the affirmative resolution procedure for the adjustment of fees. That is of great importance to voluntary groups: it would ensure that any future changes to the fee structure or level would be subject to the affirmative resolution procedure, which would make ministers more accountable for, and would ensure greater scrutiny of, any such changes than would the use of the negative procedure, for which the bill currently provides. There must be provision for stronger scrutiny of future decisions, for which ministers should be firmly accountable. That is the case because the Executive has preferred to defer such decisions to future ministers, rather than to set out many of the details in the bill. The Executive has also frequently allowed its plans to speed ahead of the process of consulting those who will be affected by the bill. Amendment 37 represents a necessary safeguard.

I welcome amendment 14, in the minister's name, which will signal that fee inflation should be avoided. However, Executive amendments 14 and

19 do not negate the merits of amendments 36 and 37.

I move amendment 36.

Robert Brown: I am grateful to Lord James Douglas-Hamilton for lodging amendments 36 and 37 on an issue that has interested him and other members of the committee from the beginning of the bill's progress. However, the amendments are based substantially on incorrect premises, which I will outline.

Retrospective checking and fees are intricately linked, because a sudden introduction of retrospective checking will create a considerable cost and administrative burden on the voluntary and other sectors. However, if retrospective checking is spread out, that burden will not be created to the same extent. We have always said that fees will be fully consulted on when the bill has been passed. That remains the position.

The fees that will be associated with the scheme were the subject of considerable discussion at stage 1, and of active committee consideration at stage 2, as is right. I am aware of the need to ensure that the charging regime is affordable and sensibly structured, so I repeat our on-going commitment to working closely with stakeholders to ensure that that is the case.

We are pretty clear about the cost of the regime. We have been through the experience of disclosure checks, when there were delays and more staff were taken on, and we have arrived at a plateau at which we can say that we know how the system works and what it costs. We know that the system is working fairly smoothly and that the new system will build on it to a large extent. We are offering the sector a variety of arrangements for dealing with fees and, as a result of the improvements that the bill will make, there will probably be a reduction in the total fees paid.

There has been much alarmist and unnecessary scaremongering and misinformation about fees, so I hope that there will be a more measured discussion as the Executive works up the details through consultation of stakeholders. I emphasise that the total cost of the scheme will be similar to that of the current scheme, on which it is based.

Amendment 36 would exempt paid and unpaid workers for voluntary sector organisations from payment of fees. The provision would go much further than the current policy, whereby free checks are provided for unpaid volunteers but not for paid workers. Amendment 36 would pre-empt the full and detailed consultation on fees in which we will engage later this year. Section 67 is broad enough to allow for the making of regulations to exempt paid staff in the voluntary sector from paying fees, should such an approach be the outcome of consultation.

On a point of principle, I say that I am not convinced that paid employees in the voluntary sector should be treated differently from paid employees in any other sector, given that many voluntary organisations enjoy the support of the public sector, whether statutorily or through grant and support. We can explore whether we should expand the scope of free checks as part of the consultation—it would be inappropriate to mandate such an approach in the bill because consideration would have to be given to how the costs of additional free checks would be met.

Amendment 37 would apply the affirmative resolution procedure to fees regulations, which would, for a number of reasons, be inappropriate. Most important, the approach would create practical difficulties in respect of modest inflation-linked rises in fees. For example, the Education Committee routinely deals with yearly changes for grant support for St Mary's Music School Trust Limited; such matters are uncontroversial and need not be dealt with through an elaborate procedure. I understand why Lord James Douglas-Hamilton seeks assurance on the matter, but the negative resolution procedure is appropriate and will provide proportionate parliamentary scrutiny. If a big issue emerges about a major change in fees, the negative resolution procedure will allow members to make an appropriate fuss and to bring the matter to Parliament.

In the 99 per cent of cases in which there will be only routine changes, the fairly elaborate affirmative resolution procedure will not be necessary. I am certain that when Lord James Douglas-Hamilton was a minister he would not have acceded to requests for the affirmative resolution procedure in relation to matters such as we are considering.

Lord James Douglas-Hamilton: Is the minister aware that when his party and the Labour Party were in Opposition, they called for the affirmative resolution procedure in similar circumstances on many occasions?

Robert Brown: I take the point about what Opposition parties ask for—it is entirely appropriate to make such points and draw out issues. However, on balance, we must take a sensible approach to the use of the affirmative resolution procedure. As I said in an earlier debate, I am more than happy for there to be the full panoply of parliamentary scrutiny through the affirmative resolution procedure if necessary. However, section 67 sets out a sensible and proportionate approach, which we do not need to broaden.

Executive amendments 14 and 19 were lodged in response to the debate in the committee about the basis on which fees will be set. It is in no one's interest to introduce a fee that will be a barrier to

encouraging employment or volunteering. Amendments 14 and 19 will place a requirement on the Scottish ministers to have regard to a number of factors when they set fees, including the circumstances in which fees are payable and the desirability of maintaining a balance between quality, cost and revenue in the performance of ministers' vetting, barring and disclosure functions.

Amendment 19 will ensure that the scope of the Scottish ministers' consideration of the performance of their functions under the provisions in amendment 14 extends to disclosures that continue to be made under the Police Act 1997; for example, basic disclosures. That is important, because the agency will be running the whole disclosure operation and not just scheme record disclosures.

Lord James Douglas-Hamilton suggested that the 40 per cent fee increase for disclosure checks in April 2006 was an increase over the course of one year. That is not correct: the increase was the first since Disclosure Scotland began operating in 2002—four years earlier—and was due to unexpectedly low demand for disclosures during the first years of the scheme's operation. The background to the fee increase is more complicated than he suggested.

It was also disingenuous to suggest that the new scheme will push up the cost of disclosure by 30 per cent. It is anticipated that the scheme will, over 10 years, be somewhat less expensive to run than the current system. Of course, no decision on fee levels has been made because there will be consultation on the matter. Lord James Douglas-Hamilton did not make good arguments for changing section 67 in the way that is proposed in his amendments.

Mr Adam Ingram (South of Scotland) (SNP): The minister has acknowledged the voluntary sector's concerns about fee levels for disclosure checks and the impact on their finances of large increases such as we have witnessed under the POCSA regime. However, he has dismissed such concerns rather too lightly.

The voluntary sector is under significant financial pressure as a result of developments such as the phasing out of European social fund support. Throughout our discussions on the bill we have said that we do not want increased pressure on the sector to have the unintended consequence of a reduction in services to the vulnerable adults and children about whom we are most concerned. The Scottish Commission for the Regulation of Care set fees to cover its costs without consulting the sector and it is feared that the central barring unit might follow that example. We accept the minister's reassurances about full consultation on the fees regime, but we need to build in to the

system protection for the voluntary sector from inordinate rises such as we have witnessed.

There are also questions about the accuracy of the financial memorandum—it is unfortunate that the Executive has not rid itself of the habit of getting its sums wrong. In the circumstances, the least we can do is ensure that proposals for changes to fee levels are subject to full parliamentary scrutiny through the affirmative resolution procedure. Therefore, we support amendment 37.

Donald Gorrie: I support the thrust of Adam Ingram's argument. Many voluntary organisations are greatly concerned about fees. I accept the minister's rebuke that we should not speak about the voluntary sector as though it were a homogenous globe, but many small organisations greatly fear that fees will go up. All history justifies that fear. POCSA was a complete shambles—it was a disaster in financial and administrative terms, so how will small organisations know that the new set-up will be any better? We have to assuage people's fears about future increases.

10:15

I have taken an interest in the procedures of Parliament; the notion that people who are worried about a particular matter can somehow have it discussed in Parliament is a complete illusion. We must have rules so that, if the Executive wishes to do something, it has to come to Parliament for a vote. It is reasonable to request that the issue that we are discussing in this group of amendments should automatically come before Parliament.

I want to make a wider point. The concept behind the fees is that the system should be self-financing. For lawyers or estate agents, for example, there should be a regulatory system to ensure that they operate honestly and within the rules and it is fair enough that those people should pay for that system out their fees. To impose the same sort of system on the voluntary sector, however, with its many different types of organisation, would be a serious policy mistake, based on a fallacy. People in those organisations give up their time to do exactly what Parliament and the Executive want. They organise good activities for young people, which—among other benefits—keep them out of trouble, and they organise help for older people, thus saving the health service and local authorities a great deal of money.

The organisations provide a public benefit at cost to themselves, so why should they be charged for people being studied to see whether they are fit to do the job? I accept that, at the moment, there is no charge for the individual volunteer, but the administrative costs to the

organisations will be considerable. We should not have a charging regime that affects them; in fact, we should financially help the organisations that provide advice to smaller voluntary organisations on how to get through the bureaucratic jungle. That would enable those smaller organisations to help their local communities—which is what they want to do—rather than filling in forms. There is a lot wrong in the Executive's way of going about things.

Mr Kenneth Macintosh (Eastwood) (Lab): I begin my remarks with a general caveat: I hope that the minister will continue to monitor the impacts and the costs of this bill and other measures on organisations in the voluntary sector, which are undoubtedly in a vulnerable financial situation.

I do not doubt Adam Ingram's concern—which is shared by all members of the Education Committee—for the voluntary sector, but I was rather amused to hear an SNP front-bench spokesman, who cannot seem to add up to £11 billion, talking about the Executive having problems with its sums. However, I will get back to the subject of this debate.

As Donald Gorrie reminded us, volunteers all have their disclosure costs paid for them, as is right. However, the voluntary sector ranges widely from what might be described as professional organisations through to the most ad hoc groups. The people about whom we are talking are paid staff; they are in the voluntary sector but they are paid employees. I am not sure that there is any logic in treating paid staff in the voluntary sector any differently from paid staff in the statutory sector—I do not see why a social worker who works for a voluntary organisation that provides a statutory service should be treated any differently from a social worker who works for a statutory organisation such as a local authority.

It is important that organisations in the voluntary sector recover their costs, and they should do so through the usual mechanisms—through their contract with the local authorities, the health authorities or whatever.

Fiona Hyslop: The member may recall a discussion that the Education Committee had with witnesses from the voluntary sector, who said that they expected to receive increased funding from the commissioning body in the statutory sector to cover the fees. However, the financial memorandum to the bill does not cover that. Will the member comment on that?

Mr Macintosh: For local authorities, the costs of disclosures are met—they are included in the grant-aided expenditure for local government. All authorities that have contracts with voluntary sector bodies for provision of statutory services

have a duty to meet those costs. That has to be built into the contract. The issue has therefore been addressed.

As I was saying, it is misleading to give anyone special treatment, but we have to be careful to ensure that the voluntary sector continues to play its vital role in providing services across the board, so we should continue to monitor the situation.

I want to speak about amendment 37 in particular. I tried to address the same issue with an amendment at stage 2. There is no doubt that the voluntary sector is genuinely anxious about the possibility of a radical increase in or realignment of fees. I accepted the Executive's arguments and reassurances at stage 2, but I mooted the option of using the affirmative procedure to govern future changes in fee levels. The Subordinate Legislation Committee looked into the matter, and we decided that the affirmative procedure would probably be a disproportionate and cumbersome parliamentary procedure when most increases will be routine inflationary rises. Any future rises in fee levels will still be subject to the negative procedure; in other words, any abnormal or radical increase will be subject to parliamentary scrutiny. I do not doubt the ability of the voluntary sector or of parliamentarians to use the negative procedure effectively to raise any concerns.

Iain Smith: I echo Ken Macintosh's final comments. Having pursued the bill through the Education Committee, I am sure that the voluntary sector is more than capable of raising any future concerns over regulations that would significantly change the structure of fees.

We have to consider a number of key points. Adam Ingram rightly voiced concern that we might have a gold-plating system. The care commission might decide how massive an organisation it wants to have, because it knows that it has the right to charge fees that will cover costs. However, what I think amendment 14 says is that the central barring unit will not be able to do that, but will have to take account of the quality and cost of the service and the fees paid. The central barring unit will not be able to do the kind of gold plating that caused so much concern to the voluntary sector during discussions on the care commission. It is important that amendment 14 sets down that the central barring unit will be required to operate efficiently and effectively, taking into account the fee levels and the bodies that it is setting those levels for.

The debate is largely about the impact on the voluntary sector. Parliament has talked about retrospection before, and I do not dispute that if we required everyone to be checked retrospectively within a very short period, it would have a massive impact on finances in the voluntary sector. Fees and retrospection are

linked. If there is not an immediate retrospective check of everyone involved, the financial impact on the voluntary sector will not be as great as has been feared. However, we should consider the fees to ensure that the voluntary sector is not put under unnecessary financial pressure. We have to acknowledge that the Executive is committed to maintaining the policy of paying the fees of volunteers within the voluntary sector. That is very important.

I am not convinced by the argument that says that people who work in the voluntary sector as paid employees should have their fees paid. Those costs should be included in any contractual arrangement for services that are provided for the statutory sector. If the costs are not covered by contracts, organisations should perhaps consider revising how they bid. It is important that workers, whether in the statutory or the voluntary sector, are all treated the same.

There are different categories of workers. There are workers who will be applying for the first time for any form of disclosure. It is fairly clearly set out in the financial memorandum that the fees for such people are unlikely to be very different from those that are currently paid.

Secondly, there are workers who can use their scheme record to passport to other applications. They must currently pay for an entirely new full-cost disclosure, but they will no longer have to do that. Because of the passporting arrangement, they will, at most, have a reduced cost short-scheme record to pay for. That bit of the equation is forgotten when we have talked about fees. Most people who are currently paying for disclosure check after disclosure check will no longer have to do that and their costs will be reduced. Ultimately, the cost to the voluntary sector will be reduced as a result.

The next category is those who may have an enhanced disclosure at present but who have not yet been retrospectively checked. When retrospection comes in, perhaps those who are already in the system under enhanced disclosure could be passported on to the new system at a reduced fee, rather than having to pay the full fee for a new check. The final category is those who have been in the system for many years and have had no disclosure check. They may have to pay the full initial cost.

The important issue about the fees is that they are affordable. There is no logic in having routine changes to fees for inflation purposes subject to affirmative resolution. If a major fee structure change were made, I would expect consultation to be carried out and that the Education Committee—or whichever committee was appropriate—would conduct an inquiry into any

negative resolution. I support amendments 14 and 19 and reject amendments 36 and 37.

Dr Murray: I have had a lot of sympathy for many of the points that have been raised by the voluntary sector, but I feel that amendments 36 and 37 are based on concerns about the bill as introduced rather than the bill as amended. Lord James Douglas-Hamilton referred to retrospection being phased in over three years, but we have already passed an amendment today to put that process into regulations that will be considered by Parliament under the affirmative procedure.

Fiona Hyslop: Bearing in mind that, for the reasons that have been stated by Dr Murray, retrospection and fees are inextricably linked, does not it make sense for retrospection and the fee level to be dealt with under the affirmative procedure?

Dr Murray: I was going to talk about that later. I am considering amendment 36 at the moment. It falls into the trap of treating all voluntary sector organisations as identical. As many members, including Ms Hyslop, have said during the debate, they are not all the same. I therefore prefer the approach in amendment 14, which will allow the circumstances in which fees are payable to be considered, and allow a more flexible approach to the different types of organisations in the voluntary sector.

I want to comment on the idea that increases in fees should come back under the affirmative procedure. Like Ken Macintosh and Iain Smith, I feel that that is a disproportionate response. It is not necessary for every inflationary increase in fees to have to go through the affirmative procedure. Members have referred to future ministers being members of the “flat earth party”. I wonder whether the same members feel that future Education Committee members will be devoid of brains, because I am sure that if a negative instrument that proposes a huge increase in fees for the voluntary sector comes before the committee, someone on the committee will notice that and comment on it. The shadow Secretary of State for Scotland has described some of his colleagues as “clueless”. Perhaps that is being reflected in concerns about the composition of the future Education Committee.

The voluntary sector had serious concerns about how the bill as introduced would affect the sector. Those concerns have been addressed adequately, so amendments 36 and 37 are not necessary. I commend amendment 14 as the appropriate way forward.

Robert Brown: Section 67 is important. I do not want to understate the importance of fee levels to the stakeholders, particularly those in the voluntary sector. I have a slight sense, however,

that we have not been debating what the bill is currently about or, in the light of assurances from ministers during the passage of the bill, about the process. The discussion has to some degree been off to one side of the argument. We are dealing with the bill as it is—I hope that members will take that into account when they vote on the bill later.

The bill is a reform of and follow-up to the existing disclosure arrangements, which we already know about. It is not a new care commission situation; it is a situation in which we know what the existing costs are and can predict the possible ramifications of charging those costs slightly differently. That is something that the consultation will take on board.

We are not adding to the burdens on the voluntary sector, either—quite the opposite. We are, in fact, reducing the burden on it and, all being well, we are reducing the costs on the voluntary sector. That is the context in which we must consider the bill.

10:30

There are all sorts of genuine issues with regard to the way in which the voluntary sector is funded, but the question is whether the bill will create significant additional burdens or change how the voluntary sector is affected by charges. In total, it will not but, in practice, the detail is open for consultation. We are, after all, talking about a fee that is currently £20. We talked about various other computations that might be used, such as membership fees, annual fees, or a larger fee for the first disclosure and smaller fees for later ones. All of that is up for grabs. The fee structure must be seen as part of the wider recruitment process, which is what causes the cost to and the burden on the voluntary sector. The fees for disclosures are a small part of that.

I entirely agree with Iain Smith's comments on the contract costs—it is a matter of dealing with the local funding issues that affect individual voluntary sector organisations. Ken Macintosh mentioned the important issue of monitoring costs. If Parliament approves the changes in one of the later amendments, there will be an annual report. Assurances have been given in that regard, which should allow a sensible and reasonable decision when we come to the consultation arrangements about the fee situation, without our having to add in the rather cumbersome arrangements that are proposed by Lord James.

Lord James Douglas-Hamilton: These matters will, after consultation, come up in regulations in the next session of Parliament. In view of what has been said, I will not press amendment 36. However, on account of the significance of the secondary legislation that will come in due course,

I see the issue of affirmative resolution in a very different light. I accept the minister's suggestion that Governments often oppose affirmative resolutions and that Oppositions invariably support them—there is an element of truth in that. However, it is the context that makes the affirmative procedure so important in this case because it could, if we are not extremely careful, lead to far-reaching decisions, which could impact adversely on the voluntary sector. It is not just inflation issues that arise out of the consultation and the decisions that are to be made in that secondary legislation—as Ken Macintosh inferred, those issues will be covered—but policy matters. Affirmative resolution would be a valuable safeguard in that context and it would be of great importance to voluntary groups. For that reason, I will press amendment 37 on the affirmative resolution for adjusting fees.

Amendment 36, by agreement, withdrawn.

Amendment 14 moved—[Robert Brown]—and agreed to.

Section 69A—Consideration of suitability: supplementary

The Deputy Presiding Officer (Trish Godman): Group 9 is on fostering. Amendment 15, in the name of the minister, is grouped with amendment 18.

Robert Brown: Members will understand the importance of ensuring that foster carers, who look after some of the most vulnerable children in society, are appropriately vetted. At stage 2, the Education Committee agreed amendments that brought some types of public and private fostering into the scope of the scheme. I indicated then that we would consider the issues again at stage 3, particularly those relating to permanent foster carers, because there were a number of issues to bottom out in that regard. Committee members supported the inclusion of foster carers in the bill and the intention to introduce further amendments at stage 3. Those amendments cover other legal provisions under which children can be placed with foster carers, such as the permanence orders that were established by the Adoption and Children (Scotland) Act 2007—it is odd to look back on some of the issues that we have discussed and to see them enacted—and the supervision requirements that may be the outcome of a children's hearing under the Children (Scotland) Act 1995.

I move amendment 15.

Amendment 15 agreed to.

Section 71A—Police access to Scheme information

The Deputy Presiding Officer: Group 10 is on police access to scheme information. Amendment 16, in the name of the minister, is the only amendment in the group.

Robert Brown: The bill was amended at stage 2 to give the police access to scheme membership information. The policy intention is that the police should have access only to the names of members, the type of regulated work that they do and sufficient information to allow the person to be identified. Concerns were expressed at stage 2 that section 71A would allow ministers to share an excessive amount of information with the police. Amendment 16 limits the use of scheme information that is shared with the police to confirming the identity of the individual in question. I hope that that narrowing of police access to scheme information will reassure members who had concerns about the potential scope of section 71A.

I move amendment 16.

Iain Smith: I thank the minister for lodging amendment 16. I assure him that I am reassured.

Amendment 16 agreed to.

Before section 87

The Deputy Presiding Officer: Group 11 is on guidance on the operation of parts 1 and 2. Amendment 5, in the name of the minister, is the only amendment in the group.

Robert Brown: At stage 2, Education Committee members suggested various ways in which a guidance power might be useful at a number of points in the bill. In particular, Elaine Murray proposed a power in respect of section 18 concerning police information and Iain Smith proposed guidance about the meaning of “regulated work” in the context of the regularity and frequency of that work, which was one of the subjects of debate at stage 2.

In response, I made a commitment to lodge an amendment placing ministers under a duty to issue guidance on the operation of the scheme generally. We had always intended to have such a duty, and it is helpful to put the power in the bill. Accordingly, amendment 5 places a duty on ministers to provide guidance on such matters as they consider appropriate in relation to the operation of parts 1 and 2 of the bill.

I move amendment 5.

Fiona Hyslop: Amendment 5 is important because so much of the operation of the bill will come down to interpretation and reflecting on

previous legislation. The understanding of what is or is not meant in certain areas of the bill is very important. Some definitions have to be clarified. The extent to which terms had to be defined in the bill or in guidance was considered at stage 2. We accepted in good faith the minister's understanding that the most commonsense and reasonable approach was to put much of the definition in guidance. Amendment 5 is a technical amendment, but it will be fundamental to the successful operation of the legislation.

Iain Smith: Concerns arose at stage 1 and stage 2 about mythical stories about school discos and so on, but we also heard some real stories about people being required to provide disclosure checks in clearly inappropriate and unnecessary circumstances. I welcome the minister's intention to produce guidance on those issues that will, hopefully, clarify the circumstances in which a disclosure check or scheme record is and is not required, which is extremely important.

Could the minister, when he sums up, assure us that there will be wide consultation, not only on the forthcoming regulations but on the guidance? In particular, will the next Education Committee have the opportunity to consider any draft guidance before it is finalised?

Dr Murray: I, too, welcome amendment 5. One of the concerns that was communicated to the Education Committee during consideration of the bill was the issue of people becoming risk averse, particularly when working with children. We have heard stories about, for example, parents not being allowed to get on to buses to fasten the seatbelts of their disabled children because they had not been disclosure checked. That sort of situation arises where there is confusion over when someone has to be a scheme member or needs to be disclosure checked. Organisations, rather than attracting blame, will tend to err on the side of caution and will seek the maximum level of disclosure to protect themselves. At one point, the bill was described as

“a protection of vulnerable organisations bill.”—[*Official Report*, 17 January 2007; c 31097.]

Without the appropriate guidance, organisations will use the legislation to protect themselves from litigation and blame.

It is important that people have appropriate and robust guidance on who needs to be in the scheme and who does not. I welcome the fact that the Executive has lodged amendment 5 at this stage to make it absolutely clear that ministers will produce guidance and that there will be no excuse for such risk-averse behaviour under the new regulations.

Robert Brown: I thank members for their comments on the amendment. The guidance will

be useful in helping to implement the act. During my time as a minister and, before that, as a back-bench MSP, I have found that passing a good law is one thing, whereas implementing it is the rest of the iceberg—the real challenge—and no more so than with regard to the Protection of Vulnerable Groups (Scotland) Bill.

There will be wide consultation, specifically with the next Education Committee, on the guidance. We will want input, given people's considerable experience and knowledge of the system. We need to involve the education sector in that process, too.

In the background is a fear that people will adopt unnecessary or excessive approaches to the new legislation as they attempt to safeguard their organisations. We wish to avoid a gold-plating approach, as I have mentioned before. I think that, through guidance, we can do something to distil the spirit of what we are looking for. Elaine Murray mentioned the risk-averse nature of the debate surrounding the bill. That is an important point, and we need to consider that more broadly.

There are three levels at issue: the bill itself and its wording; the regulation and guidance that will support the bill; and advice, which I have mentioned a number of times. We will seek to provide advice—through the central registered body in Scotland and in other ways—to the small groups that will have to comply with the legislation so that they will have comfort and confidence in how the system will operate.

Amendment 5 agreed to.

The Deputy Presiding Officer: Group 12 is on the annual report. Amendment 17, in the name of the minister, is the only amendment in the group.

Robert Brown: Amendment 17 is important. The need for the Scottish Parliament to keep an eye on implementation has been a recurring theme throughout the parliamentary consideration of the bill. I obviously have no difficulty with implementation being subject to parliamentary scrutiny or with ministers being held to account. I have commented as such already this morning. I have given substantial undertakings to the Parliament as to how the Executive will run a detailed and inclusive consultation process with stakeholders to pre-empt and avoid any difficulties so that people are comfortable with the implementation of the act. I accept that the Parliament will seek something more than good intentions from current ministers—particularly at this stage in the electoral cycle. Lord James Douglas-Hamilton lodged an amendment at stage 2 to require ministers to report on the operation of the legislation. We had a lot of discussion about that, and there was a fair degree of support for the idea in general. I am grateful to Lord James

Douglas-Hamilton for raising the matter at that stage.

We have always been clear about the need for a reporting mechanism of some sort between the Executive or organisation and the Parliament. We have discussed the way forward on that with solicitors. Amendment 17 places a duty on ministers to prepare and lay before Parliament an annual report detailing the performance of their vetting, barring and disclosure functions—effectively, the operation of the central barring unit. That reporting requirement will be useful in holding ministers to account to the Scottish Parliament on a regular basis, and it will allow members and committees to raise issues on fees and other subjects on an annual basis if they wish to do so, in line with reporting arrangements in other areas. That will keep minds focused on delivering a strong performance through the new agency. I view the move as a positive one, which I think should command the acceptance of the Parliament.

I move amendment 17.

Lord James Douglas-Hamilton: The minister's initiative in response to requests from me at stage 2 is very welcome. Amendment 17 will provide for monitoring of the implementation of a scheme that, frankly, still has some uncertainties attached to it. If it emerges that there is dissatisfaction or discontent in certain respects, the arrangements can be revisited by means of a committee inquiry. The safeguard is necessary, and I thank the minister.

Fiona Hyslop: We might reflect that the future Education Committee will have its work cut out, given how many regulations it will have to consider, as well as the annual report. The current Education Committee has used its scrutiny and accountability powers for the annual reports of other organisations and, as Lord James Douglas-Hamilton has said, that will be a key role for the future committee in this case. I thank Lord James for bringing the matter to the committee in the first place, and I thank the minister for responding positively with amendment 17.

We might reflect, however, that we have not given great consideration to Disclosure Scotland becoming an Executive agency. The minister might wish to take the opportunity now to say what progress has been made in preparing for that and whether there are any issues that Parliament should be aware of. That clearly gives ministers more responsibility—in the sense of accountability—but it might be helpful if the minister could give us some indication of what the plans are.

10:45

Donald Gorrie: The amendment is excellent but I would like the minister to tell us what would happen during the rest of the year, not just when the annual report is published. Experience shows that it is not always as easy as it should be for an MSP to get information from ministers about the operation of boards, quangos and so on that are carrying out Government policy but are not part of Government departments. When many people were coming to MSPs with information about the serious problems that were being experienced by Disclosure Scotland and the regulatory body that dealt with the voluntary sector's applications, we found that it was difficult to get those problems dealt with by the Executive. Could the minister indicate the degree to which ministers will be able to query during the year if apparent failures by the new regulatory system are brought to their attention?

Robert Brown: I thank members for their welcome for the important and central amendment 17.

All sorts of organisations are obliged to submit an annual report to the Parliament. Most of those reports are not subject to debate or detailed consideration by committees, but some are. The reports provide committees with an opportunity to have a structured debate on the operation of the agency on the basis of solid information from officials.

During the introduction of the legislation, there will be consultation on the level of the bar, the level of the fees and the retrospection issue. On-going work will be done with the voluntary sector, stakeholder agencies and the next Education Committee on the details of those issues. There will be fairly close scrutiny of a series of aspects relating to the operation of the scheme.

Beyond that, it is open to members to hold ministers to account by way of parliamentary questions and press releases and, if the matter was felt to be important, through parliamentary debates. As well as the regular annual reports, there is a hillock of ways in which members can hold ministers to account.

The Parliament's Education Committee will have a central role in that work, as it is the committee that has the greatest expertise in the detail of the operation of the scheme. I am fairly certain that, given the information and experience that the current Education Committee has gained—indeed, that I and other ministers have gained—it will be vigilant in taking forward any concerns that members might have in that regard. That ought to provide solid reassurances on the questions that Donald Gorrie raised.

Amendment 17 agreed to.

Section 95A—Fostering

Amendment 18 moved—[Robert Brown]—and agreed to.

Section 96—General interpretation

Amendments 6 and 19 moved—[Robert Brown]—and agreed to.

Section 99—Orders and regulations

Amendments 32, 33 and 7 moved—[Robert Brown]—and agreed to.

Amendment 37 moved—[Lord James Douglas-Hamilton].

The Deputy Presiding Officer: The question is, that amendment 37 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division. Since this is the first division in these proceedings, there will be a five-minute suspension.

10:49

Meeting suspended.

10:54

On resuming—

The Deputy Presiding Officer: We will proceed with the division, which will be a 30-second division.

For

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brownlee, Derek (South of Scotland) (Con)
 Canavan, Dennis (Falkirk West) (Ind)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gorrie, Donald (Central Scotland) (LD)
 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)
 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)

McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Morgan, Alasdair (South of Scotland) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Petrie, Dave (Highlands and Islands) (Con)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)
 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)

AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 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)
 Finnie, Ross (West of Scotland) (LD)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 May, Christine (Central Fife) (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)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)

Smith, Margaret (Edinburgh West) (LD)
 Wallace, Mr Jim (Orkney) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Deputy Presiding Officer: The result of the division is: For 45, Against 56, Abstentions 0.

Amendment 37 disagreed to.

Schedule 2

REGULATED WORK WITH CHILDREN

The Deputy Presiding Officer: Group 13 is on regulated work with children and protected adults. Amendment 20, in the name of the minister, is grouped with amendments 21 to 24 and 34.

Robert Brown: Committee members will recall that Ken Macintosh lodged amendments at stage 2 that sought to replace all instances of “employment” with “work” in both schedules that define regulated work. The effect of these amendments was to reduce the scope of regulated work so as to exclude from regulated work individuals who work alongside children and protected adults who are themselves volunteers.

At stage 2, we agreed with the principle of making that change to paragraphs 2 and 3 of schedule 2 and to consider changes elsewhere in that schedule. Although I supported the amendments to paragraphs 2 and 3 in principle, they were pre-empted by Executive amendments so we agreed to lodge amendments with a similar effect at stage 3.

Executive amendments 20, 21 and 22 make the changes to paragraphs 2 and 3 as promised. Amendments 23 and 24, read with amendment 20, similarly reduce the scope of regulated work in respect of paragraphs 4 and 5 when the activity is carried out in relation to children aged 16 or 17 in the course of the children’s work. We have not exempted work with children under the age of 16 who are doing unpaid work, because we consider that there is a strong case for that remaining within the scope of the scheme.

Amendment 34 makes a minor adjustment to schedule 3, on regulated work with adults. The amendment removes paragraph 5(a), which Ken Macintosh’s amendment at stage 2 sought to modify. I am grateful to Ken for highlighting that provision because we have discovered that paragraph 5(a) is largely redundant, which is why we have introduced the amendment to remove it. We believe that scenarios caught by paragraph 5(a) will also be caught by paragraph 5(b). The practical effect is to make paragraph 5 easier to read, which is worth while.

I move amendment 20.

Fiona Hyslop: The SNP will support amendment 20.

The minister will be aware that, as far back as stage 1, I raised issues about young people aged 16 and 17 who are volunteering with people who may be vulnerable adults or who may have other difficulties and need support. There may be issues about police records for any one of those people.

I welcomed the stage 2 amendments that recognised that many young people volunteer. We should not create extra bureaucracy that may prevent people from encouraging young people aged 16 and 17 to work with them. We may reflect on the debate about the position of the young person who volunteers to take minutes for a community council, the main purpose of which is not necessarily to provide services to children, but we cannot get into the ridiculous situation in which young people are prevented from volunteering because of the legislation. I therefore welcome the spirit of amendment 20 and the amendments that were lodged at stage 2 to address the issue.

Common sense and practical considerations must have a role in our approach to child protection. We must also acknowledge that another issue is setting the age of majority at 16. Indeed, Iain Smith lodged amendments at stage 2 that suggested that we should consider a child to be someone under 16, but at that point we accepted the minister's arguments for keeping the age bar at 18. Amendment 20 goes some way towards recognising the particular responsibilities of young people aged 16 and 17 who are volunteering and it addresses the need not to introduce unnecessary bureaucracy for those who provide volunteering opportunities or paid employment opportunities for young people aged 16 and 17.

Mr Macintosh: I add that the amendments that I lodged on behalf of the voluntary sector at stage 2 were designed to ensure that we do not create an artificial barrier between paid employment and work in the voluntary sector and by implication diminish the contribution made by our voluntary sector. I thank the minister for lodging the amendments today.

Amendment 20 agreed to.

Amendments 21 to 24 moved—[Robert Brown]—and agreed to.

11:00

The Deputy Presiding Officer: Group 14 is on regulated work with children: unsupervised contact. Amendment 25, in the name of the minister, is grouped with amendment 26.

Robert Brown: I thank Ken Macintosh for moving an amendment at stage 2 that clarified the scope of the scheme in respect of unsupervised contact with children. Committee members will

recall that I supported, and they agreed to, his amendment. However, I said at the time that we would need to lodge a further amendment at stage 3 to give full effect to the suggested policy and make minor adjustments to the drafting. Amendments 25 and 26 fulfil that commitment.

Ken Macintosh's amendment at stage 2 gave children's parents and guardians the right to agree that a friend can supervise their child's contact with a worker and, by so doing, take that work out of the scope of regulated work. We had no difficulty with that, since it seems entirely reasonable for a parent to have the power to do that. We ought to recognise the central importance of the rights of parents in this context.

We noted at committee that Ken Macintosh's amendment should make it easier for those seeking to organise very informal voluntary activity. Amendment 25 extends the scope of his amendment by including not only personal relationships but family relationships. For consistency, amendment 26 ties the definition of family and personal relationships in amendment 25 to those used in section 95, which provides the definition of work.

I move amendment 25.

Mr Macintosh: I again thank the minister for lodging the amendments. The issue is to make it easier for decisions to be made at the margins about what is voluntary work and to clarify what decisions it is appropriate for adults, and for parents in particular, to make. I thank the minister for recognising the strength of the amendments.

Amendment 25 agreed to.

Amendment 26 moved—[Robert Brown]—and agreed to.

The Deputy Presiding Officer (Murray Tosh): Group 15 is on regulated work with children: providing advice and guidance. Amendment 27, in the name of the minister, is grouped with amendment 38.

Robert Brown: Amendment 27 narrows the scope of paragraph 6 of schedule 2 so that the provision of advice or guidance to children is only regulated work if it is not incidental to the provision of advice or guidance to adults, which echoes Ken Macintosh's comments in the previous debate. The amendment brings the provision into line with paragraphs 2 and 3 of schedule 2, which deal with caring, teaching, instructing, training or supervising children, and which also have an "incidental" qualification.

Amendment 27 also responds to concerns that were raised by the Law Society of Scotland about the provision having a disproportionate impact on certain professionals, such as lawyers, as too many people might have been required to join the

scheme as a result of them providing advice or guidance to children. I suppose that I should mention my membership of the Law Society of Scotland at this point.

Amendment 27 puts beyond doubt that, for example, a lawyer who has a small number of child clients as part of a service to the population more generally should not be considered to be doing regulated work. However, I do not accept the argument that no lawyer should ever be a scheme member because they are regulated by the Law Society of Scotland. Plenty of individuals who will be scheme members will also be regulated by a professional body of one kind or another. Scheme membership and professional body regulation have distinct purposes, which should complement each other, but they are not substitutes for each other. I also highlight that advice or guidance is restricted to that

“which relates to physical or emotional well-being, education or training”,

therefore a criminal defence lawyer advising a 17-year-old about criminal charges would, in any event, fall outwith the scope of paragraph 6.

I would like to put it on the record that advice or guidance in relation to spiritual matters or spiritual well-being is included within the scope of paragraphs 6 of schedules 2 and 3. For children and adults, such advice on spiritual matters or well-being is considered to be captured by advice on emotional well-being. We had discussions with the Church of Scotland, in particular, on the matter, and it asked me to make the point clear on the record, which I am happy to do.

I believe that Lord James Douglas-Hamilton's amendment 38 is an alternative response to the Law Society's concerns. I hope that he will be reassured by my comments on the lead amendment. As I have said before, I do not agree with the basic tenet that any profession should be exempt from the scope of the bill on the basis that it is regulated in other ways. We should not exclude from the scheme simply because of their chosen profession individuals who have significant contact with children: we need to focus on risk and the level and type of contact that an individual has with vulnerable groups.

I reassure Lord James Douglas-Hamilton that schedule 2 can be amended by order if the provision turns out to have any adverse consequences for the legal profession or for the provision of legal services to children. On the basis of that reassurance, I hope that he will not move amendment 38.

I move amendment 27.

Lord James Douglas-Hamilton: I mention that I am a non-practising Queen's counsel, but I am

unlikely to have a direct interest in amendment 38. Amendment 38 comes from the Law Society of Scotland, which questions whether the Parliament agrees to the inclusion in the meaning of “regulated work” the work that professionals who are already regulated undertake on behalf of children. A few solicitors in specific roles are disclosure checked, such as those who are curators in court, but the Law Society is concerned that paragraph 6 of schedule 2 will affect solicitors who deal with children in more general roles.

Solicitors are considerably regulated with regard to the protection of children in such situations. The society has provided a guidance document entitled “Child Protection and Representation Principles for Children's Lawyers” and it updates information on what is required on its website. That guidance has been tailored to the unique nature of guiding children through complex legal situations and is more appropriate than any general regulatory regime could be.

Amendment 27 goes a considerable way towards assuaging concerns. It will exempt solicitors who give children incidental advice as part of their main job of advising adults, but the core issue remains that solicitors are already sufficiently regulated, as are others whom professional bodies govern.

Under amendment 38, the scheme would still include staff of telephone advice lines and agony aunts in children's magazines. Those are the only roles that are mentioned as examples in the explanatory notes to the bill. Those jobs are not currently regulated. Members of professional bodies, such as solicitors, operate in a different context. Initially, it was unclear whether ministers even intended the provision to extend to them. Amendment 38 would ensure that the provision did not apply to them and that their existing highly tailored regulatory regime would not be overridden by the general regime.

I intend to press amendment 38.

Robert Brown: I do not have much to add. I responded to Lord James Douglas-Hamilton's observations when I said that incidental advice and some work would not be covered. There is no reason in principle for exempting lawyers as a category. Teachers, social workers and others are regulated by their own professional bodies, but they nevertheless require to be disclosure checked under present law.

The arrangements that we suggest in amendment 27 and in the power to amend schedule 2 by order if we have got the provisions wrong should reassure the Parliament sufficiently on the points that Lord James Douglas-Hamilton is right to raise.

Amendment 27 agreed to.

Amendment 38 moved—[Lord James Douglas-Hamilton].

The Deputy Presiding Officer: The question is, that amendment 38 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Aitken, Bill (Glasgow) (Con)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brownlee, Derek (South of Scotland) (Con)
 Davidson, Mr David (North East 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)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Petrie, Dave (Highlands and Islands) (Con)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baird, Shiona (North East Scotland) (Green)
 Baker, Richard (North East Scotland) (Lab)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Canavan, Dennis (Falkirk West) (Ind)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Finnie, Ross (West of Scotland) (LD)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (Moray) (SNP)
 Lyon, George (Argyll and Bute) (LD)

MacAskill, Mr Kenny (Lothians) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 May, Christine (Central Fife) (Lab)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morgan, Alasdair (South of Scotland) (SNP)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robison, Shona (Dundee East) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Wallace, Mr Jim (Orkney) (LD)
 Watt, Ms Maureen (North East Scotland) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Deputy Presiding Officer: The result of the division is: For 13, Against 87, Abstentions 0.

Amendment 38 disagreed to.

The Deputy Presiding Officer: Group 16 is on the power to disapply offences in relation to regulated work. Amendment 8, in the name of the minister, is grouped with amendment 9.

Robert Brown: Amendments 8 and 9 are designed to allow flexibility in the development of fostering policy and compatibility with the Safeguarding Vulnerable Groups Act 2006 for England, Wales and Northern Ireland. They put beyond doubt ministers' power to create classes of regulated work whereby the individual is a scheme member and is subject to continuous vetting but is not caught by some or all of the barring offences in sections 33 to 36. The power can be used to extend the scheme and therefore to extend protection, but it will avoid the unintended consequences that can sometimes follow from the barring offences. That relates to the fostering matters that we dealt with earlier.

I move amendment 8.

Amendment 8 agreed to.

Schedule 3

REGULATED WORK WITH ADULTS

Amendments 34 and 9 moved—[Robert Brown]—and agreed to.

Schedule 4

MINOR AND CONSEQUENTIAL AMENDMENTS AND REPEALS

Amendment 28 moved—[Robert Brown]—and agreed to.

Schedule 5

INDEX

Amendment 10 moved—[Robert Brown]—and agreed to.

The Deputy Presiding Officer: That ends consideration of amendments. As members are aware, the allocation of time for proceedings is an art rather than a science. Today, we have finished early. We will suspend the meeting until 11:40, when we will return for questions.

11:11

Meeting suspended.

11:40

On resuming—

Question Time

SCOTTISH EXECUTIVE

General Questions

Lothian and Borders Police (Recruitment)

1. Mr Kenny MacAskill (Lothians) (SNP): To ask the Scottish Executive how many officers were recruited by Lothian and Borders police in 2006. (S2O-12267)

The Minister for Justice (Cathy Jamieson): In 2006, 104 officers were recruited by the force.

Mr MacAskill: Will the minister comment on a problem that the Scottish Police Federation in Edinburgh has raised with me? I refer to gapping, which involves officers being recruited and included in the figures for a year, but being on deferred or delayed entry. Such officers may not come in for several months—sometimes more than six months. Clearly, that practice would make the figures false. Can the minister advise us whether the officers to whom she referred have started their training course and are serving officers, or whether they are still gaps?

Cathy Jamieson: I will double check with Lothian and Borders police the situation of the 104 officers I identified and I will write to Mr MacAskill if it turns out that further information is required. As Mr MacAskill knows, the important issue is that we face a retirement bulge within the next couple of years. For that reason, police forces have been given additional resources to enable them to recruit the necessary officers in advance, to get them through the appropriate training at the Scottish Police College and to get them into forces. Lothian and Borders police also has a significant number of additional support staff.

Water Quality (Western Isles)

2. Dave Petrie (Highlands and Islands) (Con): To ask the Scottish Executive whether it considers that the value of Scottish Water's investment in water quality in the Western Isles will be eroded if leakage in the pipe network is not addressed at the same time. (S2O-12261)

The Deputy Minister for Environment and Rural Development (Sarah Boyack): There would be little point in making such investment if it was not accompanied by initiatives to tackle maintenance-related issues such as leakage. That is why Scottish Water has been given a series of challenging targets for leakage reduction during the first four years of its current investment

programme. It is required to close 50 per cent of the gap between current performance and the economic level of leakage by 2010, with interim targets of a 16 per cent reduction in this financial year and a 25 per cent reduction by 2007-08.

Dave Petrie: I acknowledge what the minister has said, but does she agree that pipe network leakage of around 50 per cent throughout Scotland is a massive waste of expensively treated water, and that the problem will be adequately rectified only by releasing Scottish Water from the financial limitations of the current funding process and replacing it with a not-for-profit mutual model?

Sarah Boyack: I could not disagree more. Vast investment of more than £2 billion is being made. The key point is that Scottish Water must tackle the level of leakage and reduce it progressively year on year. The Water Industry Commission is keen to ensure that that happens. It is important that Scottish Water has a clear understanding of the quality of its assets throughout the network. If it reduces significantly the amount of leakage in one area without having a consistent programme in other areas, the network may pop elsewhere. A coherent programme is needed. Scottish Water has been set challenging targets that have been agreed with the WIC. I am confident that the resource allocation from the WIC that has been agreed with Scottish Water will enable it to meet those targets.

Rob Gibson (Highlands and Islands) (SNP): Can the minister enlighten us on whether the cost accounting method of regulatory capital value that Scottish Water uses has led to a choice of far more expensive water supply systems in the Western Isles than, for example, boreholes and local pipes? Will she listen to the people of Lismore and Scoraig, who have been chosen for far more expensive systems than are necessary? Will she try to stop that squandering of scarce public money by opting for simpler solutions?

Sarah Boyack: If the member had attended Tuesday's meeting of the Finance Committee, he would have been able to participate for the best part of an hour in a detailed discussion of such issues, including the one that he raises. I made the point to Jim Mather that we cannot take a simplistic view of what is appropriate.

The drinking water quality regulatory process is important. The quality of drinking water in Lismore—including water for schoolchildren—is one of the key issues that were considered. The WIC deals with economic regulation and considers what Scottish Water can afford. The Scottish Environment Protection Agency deals with environmental regulation. I am perfectly satisfied that those three regulatory processes will determine what Scottish Water should do.

Scottish Produce (Processing and Marketing)

3. Nora Radcliffe (Gordon) (LD): To ask the Scottish Executive what action is being taken to support the processing and marketing of Scottish produce. (S2O-12309)

The Minister for Environment and Rural Development (Ross Finnie): Since 2001, the Scottish Executive has awarded in excess of £60 million to Scottish food processing projects and it is presently developing new arrangements to support the processing and marketing of Scottish produce up to 2013.

Nora Radcliffe: Does the minister agree that it is important to support and promote Scotland's food and drink producers, particularly primary producers, during the next few years of transition in the agriculture industry? Will he join me in commending the taste of Grampian initiative, whose eighth annual event will be held on 2 June at the Thainstone centre? The event, which will attract more than 100 food, drink and associated exhibitors who will show the vast range of produce that is grown, made or produced on the doorstep in the north-east, is hosted and supported by the ANM Group Ltd, Aberdeenshire Council, Grampian food forum, Scottish Enterprise, the Press and Journal and McLeish Brothers Ltd. Will the minister commend their co-operation in promoting and running an increasingly effective and successful event?

Ross Finnie: I greatly welcome the industry's recognition of the importance not only of promoting itself but of improving the links between primary producers and final consumers. I also commend the taste of Grampian initiative and the promotion that it involves.

I note from Nora Radcliffe's comments the wide range of organisations and companies that are sponsoring the event, which also reflects the improved process of integration involving primary producers right through to consumers. That work across Scotland—and in relation to the taste of Grampian initiative, in particular—is to be commended.

Alasdair Morgan (South of Scotland) (SNP): The minister is aware of concerns about the seafood from Young's of Annan being exported to Thailand for processing and then re-imported. Will the minister's officials undertake to look at that seafood when it returns from its long journey to Thailand and back, to ensure that there is no danger of its being mistaken for Scottish produce?

Ross Finnie: I do not know whether the member recalls this—I know Stewart Stevenson will—but, curiously enough, a year or two ago, there were proposals in the white fish sector to ship a container-load of white fish to the far east, where incredibly low prices were being charged for

filleting, and to bring it back to Scotland. However, that produce was being sold to the retail market, and retailers would not accept any claims about its traceability. Although I do not want to speculate about where Young's produce might be sold, traceability will certainly be a key issue.

As for checking the seafood in question, we would be very concerned if someone tried to promote a product whose traceability could not be assured. Moreover, I find it instructive that one or two of our major retailers—who are, for once, to be commended—have recently announced their intention to increase their local sourcing and improve labelling to ensure that we are more aware of a product's source and any food miles that might be involved.

Edinburgh City Bypass

4. John Home Robertson (East Lothian) (Lab): To ask the Scottish Executive whether it has any plans to reduce congestion on the Edinburgh city bypass. (S2O-12282)

The Minister for Transport (Tavish Scott): In the next few weeks I expect to receive the final report into possible short and long-term improvements on the A720 Edinburgh city bypass at Sheriffhall roundabout. Agreed short-term improvements such as signal adjustment and localised improvements at the junction will be taken forward straight away and the study's longer-term findings will feed into the current strategic transport projects review.

In addition, the trunk roads incident support service, which for the past 18 months has been successfully trialled on the Glasgow motorway network, will be extended to cover the Edinburgh city bypass from 1 April. That move will aid the early and efficient clearance of incidents and hazards that can cause traffic delays.

John Home Robertson: The minister was certainly right to use the phrase "long-term". However inconvenient the fact might be for Liberal Democrat candidates in Fife and elsewhere, will the minister confirm that, for four long years, transport in Scotland has been the inescapable responsibility of Liberal Democrat transport ministers? In view of the conspicuous failure to do anything about the daily gridlocks at Sheriffhall and along the rest of the city bypass, which are now aggravated by the mayhem on Milton Road, will the minister redeem himself at this very late stage by proposing something quicker than long-term solutions? He might, for example, give us a firm assurance that there will be grade separation at Sheriffhall. Otherwise, a Liberal apology—a rare thing, indeed—might be in order.

Tavish Scott: Perhaps that is Mr Home Robertson's idea of being pleasant and

encouraging me to give him a better answer. He obviously did not listen to my previous reply. Moreover, the last time I looked, there were Labour ministers in the Cabinet, and they and Liberal Democrat ministers collectively agree on the strategic projects that should be taken forward. If Mr Home Robertson has a problem with that, he should take the matter up with the Labour Party.

Derek Brownlee (South of Scotland) (Con): I almost hesitate to intrude on this little argument, but I am glad that the minister mentioned Sheriffhall, which is the key pinch-point for travellers from the Borders. In addition to the impact of the measures the minister has mentioned, what impact does he think the Dalkeith bypass and the Waverley line will have on reducing congestion at that point? Surely, despite those initiatives, traffic flows through Sheriffhall are, if anything, likely to increase rather than decrease.

Tavish Scott: Mr Brownlee makes a reasonable point about how traffic flows—

Mr John Swinney (North Tayside) (SNP): A-ha!

Tavish Scott: Calm yourself, Mr Swinney.

As I was saying, Mr Brownlee makes a reasonable point about how traffic might flow. Indeed, it is one of the aspects covered in our modelling. The investment in the Borders railway line is a crucial means of reducing dependency on cars and giving people in the area public transport choices. That is important not just for the Borders and Midlothian, but for the various links to the strategic rail network throughout the country. We hope that the project will help with the congestion issues that we must confront.

Harbours (Severe Weather Events)

5. Rob Gibson (Highlands and Islands) (SNP): To ask the Scottish Executive what assessment it has made of the cost of increased severe weather events for small harbours such as Wick. (S2O-12248)

The Minister for Transport (Tavish Scott): Ports and harbours around Scotland make their own and continuing assessment of the effect of severe weather on infrastructure and shipping. Wick Harbour Authority has been in contact with the Executive about the recent significant storm damage, and we await further information from it with regard to possible funding under the fishing harbour assistance scheme.

Rob Gibson: I am sure that the minister shares the concern that I and the harbour trust have expressed that the cash for strengthening the south river pier, which protects the Lower Pulteneytown area, must be made available

quickly because of the serious potential for flooding and inundation following the severe weather event in late February. As another such event could happen soon, will the minister ensure the speedy approval of schemes to use the reported £17 million underspend in coastal and flooding schemes in the current financial year?

Tavish Scott: The local member, Jamie Stone, has already raised this matter with me, and I have undertaken to look closely at any potential for responding quickly to such matters in Wick harbour. I know from my experience in harbours that tackling these matters quickly is of the utmost importance. We will look closely at any application to find out how we can most efficiently use resources. That said, I hope that Mr Gibson understands that the grant schemes have particular constraints.

Mr Jamie McGrigor (Highlands and Islands) (Con): The increase in the incidence of severe weather events mentioned by Mr Gibson, increased pressures on the Scottish fishing industry and the hoped-for growth in maritime tourism in the north of Scotland mean that more vessels are likely to find themselves on the seas in bad weather. Will the minister ensure that the matter is given priority? Will he join me in congratulating the Royal National Lifeboat Institution on its excellent life-saving work? The bad weather is placing more burdens on the institution, which in 2006 rescued more than 1,000 people from danger at sea.

Tavish Scott: I absolutely agree with Mr McGrigor's point about the RNLI and I am sure that he shares my view that it plays an essential role in many of our coastal communities. Indeed, I have a strong connection with the Lerwick and Aith branches in my constituency and very much respect their work. Just last weekend, I attended a retirement do for a former RNLI skipper in my home town of Bressay.

I take the member's point about the wider impact of the weather on shipping at sea. I am sure that he is aware that the technology—the electronic equipment, the forecasting techniques and so on—on board most forms of shipping down to the smallest vessels has progressed tremendously. Nevertheless, I take his point about the importance of secure harbours. We will continue to work on the matter with port authorities and harbour trusts.

Births (St John's Hospital, Livingston)

6. Bristow Muldoon (Livingston) (Lab): To ask the Scottish Executive how many births there have been at St John's hospital, Livingston, in the last five years. (S2O-12296)

The Deputy Minister for Health and Community Care (Lewis Macdonald): There have been more than 2,000 births at St John's hospital in each of the past five years. The number of births has increased from 2,372 in 2001 to 2,761 in 2005, which is a 16 per cent gain over the five years.

Bristow Muldoon: I am sure that the minister recognises that the increasing number of births at St John's hospital reflects not only the work of that excellent local hospital, but the fact that there is a young and growing population in West Lothian and in the parts of Edinburgh that are served by that hospital. Will he assure me that the maternity services that are provided at St John's hospital will continue to be an integral part of national health service maternity services in the Lothians and that St John's hospital will have the appropriate number of consultant staff to maintain its services?

Lewis Macdonald: Absolutely. Mr Muldoon will be well aware of the recent appointments of obstetricians and paediatricians, which indicate the continuing important role that St John's will play in providing maternity and child services in Lothian. He may also be aware of the consultation on medical catchment areas in West Lothian and the west of Edinburgh that recently got under way, which has reflected the continuing importance that St John's is likely to have for an even wider population in the years to come.

Fiona Hyslop (Lothians) (SNP): I declare an interest. I am the mother of one of the many children who have been born at St John's hospital.

Will the minister reassure members that the Executive wants St John's to maintain a full obstetric service in the future? Senior consultants in the Lothians have told me about their concerns about future rotas for junior doctors, particularly in respect of anaesthetics, and the ability to supply full obstetric services at both the Edinburgh royal infirmary and St John's in the future. Will he confirm that in its forward planning strategy, the Executive aims to ensure that both St John's and the ERI can provide full obstetric services in the future?

Lewis Macdonald: Absolutely. As I said in reply to Mr Muldoon's question, St John's will continue to play a key role in that field. I hope that Fiona Hyslop will join Bristow Muldoon and ministers in reassuring people in West Lothian and the west of Edinburgh about that. The hospital has an important future in providing those services and a range of other consultant-led services, which will continue to bring benefits to what Bristow Muldoon rightly described as a young and growing population in that part of Scotland.

Elaine Smith (Coatbridge and Chryston) (Lab): On international women's day, and on the

subject of births, will the minister say what the Executive is doing to address the serious and debilitating condition of post-natal depression? What support and services exist for women who are affected by that condition? Given that there has been no epidemiological research on post-natal depression since the first significant Edinburgh study in 1982, are there any plans to carry out such research?

The Presiding Officer (Mr George Reid): The original question was about St John's hospital, but the minister might want to take it from there.

Lewis Macdonald: I am happy to deal with the questions in that context.

The new services that we are putting in place throughout Scotland for mothers with post-natal depression include new dedicated services in the west and the east of Scotland. In December, I was delighted to open the new unit at St John's for mothers who are suffering from post-natal depression and their babies. That service will be well used. When I opened the unit, I was delighted to hear from users of post-natal depression services in West Lothian, who told me about how much they had influenced the design of the new centre. Similar provision has been put in place elsewhere in Scotland at the regional and local levels. That provision points to the importance that we attach to such services.

Dentists (Training Places)

7. Mike Rumbles (West Aberdeenshire and Kincardine) (LD): To ask the Scottish Executive why the number of training places for new dentists will be reduced to 150 in 2007-08 from 151 in 2006-07. (S2O-12308)

The Deputy Minister for Health and Community Care (Lewis Macdonald): The Scottish Further and Higher Education Funding Council automatically adjusts student recruitment figures on the basis of drop-out rates over the previous three years. We expect the number of people who complete the dental degree course to continue to rise. Discussions with the funding council on student recruitment in the next academic year are still continuing.

Mike Rumbles: Twenty years ago, Scotland produced 159 dental graduates. The Executive expects 134 students to complete their studies next year. Therefore, the plan is to produce 25 fewer dental graduates.

People in the north-east are still having to go on to a waiting list to get access to a national health service dental practice. Will the minister increase the number of funded training places to tackle the shortfall? When will he consult on the need for a new dental school to be located in Aberdeen,

which he is committed to do under the partnership agreement?

Lewis Macdonald: I am pleased to assure Mike Rumbles that although I am sure the figures he quoted are correct, they reflect the consequences of the Conservative Government's decision to close the dental school in Edinburgh some 10 or 11 years ago. That is why there has been a reduction in the number of people qualifying from our dental schools. I am delighted to reassure him that the number is now increasing and that we expect it to continue to increase. On current plans, in 2009, 2010 and 2011, we expect once again to be producing more than 150 dental graduates a year.

Mr Rumbles also asked about the consultation on the provision of a new dental school. As he will know from answers to previous oral questions, the dental outreach centre at Aberdeen has been up and running for a number of months. I have given a commitment to consult, about a year from now, on extending that dental outreach centre on the basis of the experience that it has gained over those 12 months. I am confident that ministers will carry forward that consultation in accord with the commitments that have already been given.

First Minister's Question Time

12:01

Cabinet (Meetings)

1. Nicola Sturgeon (Glasgow) (SNP): To ask the First Minister what issues will be discussed at the next meeting of the Scottish Executive's Cabinet. (S2F-2761)

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

Nicola Sturgeon: On a very important issue, I remind the First Minister that rail commuters across Scotland are today enduring a second day of travel chaos and misery. When the Minister for Transport was asked yesterday what action he had taken to try to avert this deeply damaging strike, he said:

"It's not for me to get involved".

That is simply not acceptable, is it?

The First Minister: That is a gross misrepresentation of what the Minister for Transport said and I do not think that it deserves an answer.

Nicola Sturgeon: I suggest to the First Minister that rail passengers across Scotland will think that the First Minister should be answering such questions, today of all days. From discussions that I have had, and from the comments that have come from members of his Government yesterday and today, it is abundantly clear that in the period from the breakdown of the talks on Monday to the start of the strike on Wednesday, the Executive took no action to try to bring together the two sides of the dispute. On the radio this morning, the Minister for Transport said that he spoke to Network Rail only yesterday and has still not spoken to the rail union. That is just not good enough.

I remind the First Minister that the railways are his responsibility and that Network Rail is funded by the taxpayer to the tune of £1 million each day. Is not that reason enough for the First Minister to have been in there before the strike started in order to knock heads together in the interests of the taxpayer and the travelling public?

The First Minister: The difference between me and my party and her leader elsewhere and her party is that I believe that we are running a country and a Government, not a railway.

The reality is that Ms Sturgeon grossly misrepresents what the Minister for Transport has said and done. As ever, she seeks to turn a dispute between a private company and the trade

union that represents the employees of that company into a political dispute. The reality is that the passengers on our railways should come first.

I regard the strike yesterday, today and tomorrow as unnecessary and unacceptable. Having spoken yet again to Network Rail this morning, I believe that there is an opening or opportunity this afternoon that Network Rail would accept. Network Rail told me this morning that it would meet the trade union within an hour if the strike were called off and the trade union was willing to sit round the table with Network Rail. I believe that that is an offer that the trade union should accept. Even if the trade union had a point, it has made its point in the first 24 hours of the dispute. The union should call off the second 24 hours of the strike immediately, get round the table with Network Rail this afternoon and resolve the dispute in the interests of passengers throughout Scotland.

Nicola Sturgeon: Is not the First Minister guilty of trying to close the stable door after the horse has bolted? Network Rail is not just any private company—it is publicly funded, so the Government should have acted to try to avert the strike long before it happened.

I will remind the First Minister of the strike's devastating impact on commuters, business and the economy. No trains at all have run north of Stirling, there have been no trains anywhere after 7 o'clock and virtually no freight trains have run. The cost of that to business and the economy is £15 million. In the face of that, what did the Minister for Transport have to say yesterday? He said that his job is to "express ... frustration". Should not the First Minister have thought a lot earlier and a lot more about the frustration that the strike would cause the public? Do not the public have a right to expect him to make a serious attempt to avert the strike, rather than simply to sit on the sidelines wringing his hands?

The First Minister: Since I became First Minister, on every occasion on which there has been a strike in the public or private sector, the nationalists have called on us to put pressure on the management to capitulate or to give in in the face of that action. That is not the role of Government in this country; our role is to tell the truth and to stand up for those who use the services. The reality is that the strike is unnecessary, because discussions could easily have continued for the rest of the week. In my view, at the very least the second day of the strike is unacceptable. The trade union should accept immediately the offer that Network Rail made to me this morning to get round a table this afternoon and it should call off the second 24 hours of the strike. If the Scottish National Party believed in genuine government in this country, it would

support that call rather than try to politicise the dispute.

Nicola Sturgeon: I support that call and I agree that the strike is unnecessary. However, the First Minister should have put pressure on both sides before the strike started. The First Minister's spokesman said yesterday that the First Minister was disappointed that the strike had happened. I suggest that the First Minister's disappointment is as nothing compared to that of the people who rely on trains to get to their work in the morning. Is not there a clear pattern in that whenever there is a need for strong leadership in Scotland, the First Minister and the Government are absolutely nowhere to be seen? Is not that just one reason why so many people in Scotland think it is time for a new Government and approach and for some real leadership?

The First Minister: We know that Miss Sturgeon likes to give in, because she gave in in a leadership election that allowed someone from London to be elected as her party leader. I assure Miss Sturgeon and Mr Salmond that the job of a First Minister and Government is not to capitulate and to give in whenever there is a threat of strike action; it is to stand firm and to ensure that negotiations take place. I call on the National Union of Rail, Maritime and Transport Workers, the trade union that is involved, to get round the table this afternoon with Network Rail, to call off the second day of the strike and to ensure that the commuters and passengers on Scotland's railways come first, because the investment that we have put into new railways, new rolling stock and better transport in this country is not being used today as a result of action that need not be happening.

Prime Minister (Meetings)

2. Miss Annabel Goldie (West of Scotland) (Con): To ask the First Minister when he will next meet the Prime Minister and what issues they will discuss. (S2F-2762)

The First Minister (Mr Jack McConnell): I expect to meet the Prime Minister again within the next fortnight. I look forward to discussing a range of issues of importance to Scotland.

Miss Goldie: I doubt that the First Minister will be too keen to discuss the situation on our railways. As has been said, thousands of commuters face misery as they struggle to get to work and back home because of the strike by signalling staff. The First Minister has just said that he spoke to Network Rail this morning. Was that his first intervention?

The First Minister: That is not what I said, actually. I said that I spoke to Network Rail "again ... this morning". The Minister for Transport and I

and our officials have had discussions on the issue.

I will make the same point to Annabel Goldie as I made to Nicola Sturgeon. First, the dispute is between a private company and its employees so they should resolve it. Secondly, there is no need for the dispute: the discussions could easily continue again this week and for a number of weeks before the new 35-hour week is meant to be introduced. In addition, Network Rail and the management have offered to go to the Advisory, Conciliation and Arbitration Service. The trade union should at the very least be willing to accept that offer. If it is not, it should be round the table this afternoon negotiating with Network Rail rather than striking and putting commuters and other passengers at some disadvantage.

Miss Goldie: The First Minister cannot wriggle out of the question so easily. Bob Crow—not a man whom I am given to quoting on any occasion—said that the

"Executive sat on its hands and did nothing to help".

The implications of the strike are far wider than commuters' not being able to get to work. Some of the people who will not get to work on time are doctors, nurses, ambulance drivers, policemen and firemen, so not only will the roads be congested and the economy suffer, but lives may be put at risk because Bob Crow has decided that Scotland is a soft touch for disruption. What has the First Minister been doing to tell Mr Crow that Scotland has moved on and that his views belong in the past?

The First Minister: It is not I who am agreeing with Bob Crow, although Annabel Goldie is quoting him. We see ridiculous hypocrisy from the Conservatives yet again. The reality is that a deal was agreed between the management of Network Rail and the trade union to avert a strike last year, which involved a significant pay rise and a reduction in the working week to 35 hours. The trade union has agreed implementation of that deal in every other part of the United Kingdom, so it is time it sat down and discussed an agreement for Scotland. There have been discussions every day this week—Network Rail made clear to me again this morning that it would be prepared to sit down this afternoon within an hour to have further discussions on the implementation of the agreement if the National Union of Rail, Maritime and Transport Workers would call off the second day of the dispute and get round the table, too. It is no wonder that David Mundell thinks that the Scottish Tories are "clueless" when Annabel Goldie comes up with such rubbish and capitulation in the face of a strike.

Miss Goldie: Perhaps the difference between me and the First Minister is that the internal

memos of my party do not end up in Scotland Yard. *[Applause.]*

The simple fact is that people like Bob Crow belong to an age that is far removed from modern Scotland. Is not it about time the First Minister showed a bit of leadership? Being First Minister is not just about patting oneself on the back when something half decent happens, but about standing up and taking charge when Scotland's rail network is in chaos. Is the First Minister as blasé as his Minister for Transport, Mr Scott, or will he stand up for Scotland's people and take action?

The First Minister: Members of my party have not ended up in jail for telling lies in court.

Phil Gallie (South of Scotland) (Con): Not yet! Not yet! Not yet!

The Presiding Officer (Mr George Reid): Mr Gallie, you are getting excited.

The First Minister: Mr Gallie can occasionally be excitable, but at least he is entertaining and consistent.

I will be clear: responsibility for the dispute and for resolving it lies with the employers and the employees. However, it seems clear to me—as it was yesterday, the day before and the day before that—that Network Rail is willing to have further discussions, which is why there has been communication every day this week. Network Rail has been reasonable and there is a deal in every other part of the country, so the trade union—the RMT—should accept the offer of discussions this afternoon. Having made its point in the first 24 hours of action, the RMT should call off the action for the second 24 hours. It should allow commuters and passengers who want to enjoy the benefits of improved rail travel in Scotland—whose numbers continue to increase—to get back on the trains so that they can get to work and get home again, too. The trade union should accept Network Rail's offer and I believe that it should do so immediately.

The Presiding Officer: I will take one constituency supplementary this week.

Trish Godman (West Renfrewshire) (Lab): The First Minister will be aware of the loss of jobs that my constituents at Ferguson Shipbuilders Limited's yard in Port Glasgow face. I welcome his decision earlier this week to bring forward the tendering process for the fisheries protection vessel, which I hope will be built at Ferguson's shipyard in my constituency.

However, I urge him to facilitate a meeting between management, shop stewards, Ross Finnie, Nicol Stephen and me so that we can give careful consideration to all the options for work that are open to Ferguson's yard. I also ask him to encourage his Minister for Transport, Tavish Scott,

to make an early decision on the Gourrock to Dunoon ferry, which would enable Ferguson's to bid for that order.

The First Minister: We are moving quickly on all those issues. In particular, the Cabinet agreed yesterday morning to take immediate action to ensure that the tendering process that is due for the fisheries protection vessel happens within the 90-day period, and agreed to assure Ferguson's that it will be in a position to express an interest in tendering.

I am sure that ministers will be willing to discuss those matters with Trish Godman, but I assure Parliament that Scottish Enterprise, with the encouragement of ministers, has been actively involved in discussions with Ferguson's about diversification, about developing its ability to win contracts in the future and about the work that it could be bidding for.

In addition, the tender process for Caledonian MacBrayne involves more vessels. Ferguson's may be able not only to tender, but perhaps even to win contracts for building them.

Thirdly, ministers have quite rightly ensured that the initial tendering process for a fisheries protection vessel has been properly scrutinised. In our view, there will be a more professional tendering process this time round, which will, we hope, mean that not just Ferguson's but other yards will be able to compete on a fair and consistent basis.

International Women's Day

3. Dr Sylvia Jackson (Stirling) (Lab): To ask the First Minister, in light of international women's day on 8 March, what achievements there have been which have improved women's lives in Scotland. (S2F-2769)

The First Minister (Mr Jack McConnell): International women's day is a day for reflection and celebration for women across the globe. We have much to be proud of on improving the lives of women in Scotland, but I think we all recognise that there is still much to do.

However, I am proud that the gender pay gap is narrowing; that girls and young women are leading the way in our schools, colleges and universities; that we have introduced tough new measures for the police and courts to tackle all forms of violence against women; that child care is improving, such that everyone who wants a nursery place for their three or four-year-old is guaranteed one; and that deaths from cervical and breast cancer have declined. In addition, I am especially proud that we have strong female representation in Parliament—the level of female representation here is among the best in the world.

Dr Jackson: I welcome the First Minister's answer on our achievements, especially the part of it about cervical cancer. Will he join me in welcoming today's announcement by the Labour Party that all 12-year-old girls will be offered a vaccination against cervical cancer? Does he share my ambition that Scotland should be the first nation in the world to have a population that is fully vaccinated against the disease?

The First Minister: Cervical cancer is not just an issue for the women who receive that frightening diagnosis; it is a massive issue for the families throughout Scotland who are affected by deaths from the disease, more than 100 of which continue to occur each year. Fear of cervical cancer adds considerably to the worries of young and older women throughout Scotland. As soon as the Joint Committee on Vaccination and Immunisation agrees to make the vaccination available in the United Kingdom, it will be right and proper for women in Scotland to receive it and to be free from that fear.

Margaret Smith (Edinburgh West) (LD): How will the Scottish Executive deliver on its obligations under the gender equality duty, which I believe will be stronger in Scotland than in the rest of the UK?

The First Minister: We will work with public and private partners who are affected by the duty to ensure that it is consistently implemented. The Scottish Executive's equality unit deals with a range of bodies and stakeholders on such issues and we monitor the implementation of not just the gender equality duty but the Disability Discrimination Act 1995.

Ambulances (Emergency Calls)

4. Christine Grahame (South of Scotland) (SNP): To ask the First Minister what plans the Scottish Executive has to review the management of 999 emergency calls for ambulances. (S2F-2775)

The First Minister (Mr Jack McConnell): There are no plans for a review of the management of 999 emergency calls for ambulances.

Christine Grahame: I put on record my admiration for the dedication of ambulance crews. Crew members and patients have contacted me to express concerns. A crewman from the Scottish Borders shed light on why ambulance crews in the area are taking longer to answer calls, when he said:

"It is definitely a management issue. Crews are being taken from the Borders up to Edinburgh to work. It doesn't seem to matter what is being done on your part, or the press. The service still continues to send crews out of their area."

In the light of a fairly recent case in the Borders that almost had very bad consequences, does the

First Minister have an idea of the scale of the problem in Scotland? If he does not, are there grounds for an independent review or inquiry to determine the scale of the problem?

The First Minister: I prefer to improve the service, which is precisely what we have been doing. The average response time for ambulances in Scotland has come down to 8.4 minutes—the fastest it has ever been in Scotland. I give credit to the Scottish Ambulance Service. It would be possible for this Government to claim some of that credit by pointing to the increased resources for the service, because some 412 additional paramedics and technicians have entered the service since 2002. However, I want to give the credit to the people who work hard to ensure that ambulance services are available.

I also pay tribute to the people who work in the service in the Borders and in Dumfries and Galloway, where ambulance response times have been reduced again this year and are almost at the Scottish average, despite the rural nature of the area. Those people are doing a terrific job. Christine Grahame's constant attempts to run them down are unbecoming of her.

Gang-related Violence

5. Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): To ask the First Minister how the Scottish Executive is working to tackle gang-related violence. (S2F-2773)

The First Minister (Mr Jack McConnell): Gang violence has a devastating impact on communities, which is why the Executive has taken unprecedented action to tackle the problem. There are tougher sentences for knife crime and new laws to tackle antisocial behaviour, and there has been action on alcohol, violence and drugs.

In addition to tougher enforcement, longer-term work is under way, which is aimed at changing the attitudes and behaviour of young people who are involved in gangs by providing opportunities for education, training and employment that offer real alternatives to crime and violence.

Jeremy Purvis: I welcome the First Minister's reply. He is aware that there are about 100 gangs spread across Glasgow, which range from handfuls of young men to long-established groups of between 50 and 100 members.

I warmly welcome the fact that last year there were 1,000 fewer victims of serious crime than there were when Parliament was established—the figure is at its lowest. However, Inspector Tom Halbert, from the violence reduction unit, said:

"The 'typical' murder on the streets of Glasgow will be committed by a young man aged 15 to 21; he will carry a lock knife, which he claims is for his own protection."

Does the First Minister agree that youth panels in New York, which involve young people directly and give them leadership in reducing gang culture, have been successful and effective? Does he also agree that we need to look afresh at the sentencing regime? There is a case for longer, seven-year-maximum combined custody and community sentences. An approach that addresses the underlying reasons for violent behaviour would be effective and help to save lives.

The First Minister: There is a case for longer sentences, which is why we legislated for longer sentences for people who are convicted of knife crime. Lessons can be learned from New York, which is why the Minister for Justice visited that city. We can take on board good practice elsewhere to ensure that justice is faster and more effective locally—I am sure that there will be debates about that during the coming weeks.

In addition to ensuring that we have tougher sentences for people who carry out knife crime, and that we have better enforcement of the law—through, for example, our investment in the machinery that is currently helping to detect knives and other weapons—it will be important to work relentlessly to divert young people away from such lifestyles and into far more productive activity and hope. That is why we are also investing time and effort in providing opportunities for young people in education, training and leisure that will give them alternatives to gangland or weapon-related lifestyles.

Mr Stewart Maxwell (West of Scotland) (SNP): The First Minister will be aware that gang violence all too often involves knives, and that only between a quarter and a half of people who are victims of knife attacks and have to go to hospital ever report the attacks to the police. For some time now, I have been calling for the mandatory reporting of the details of knife-crime incidents to the police by hospitals. I was therefore very pleased when two pilots to do just that were started at Glasgow royal infirmary and the Royal Alexandra hospital in Paisley. The Minister for Justice hailed those pilots when they began. Can the First Minister tell me why one of those pilots has now been scrapped, and can he tell me when the results from the second will be published? If the results replicate the success of such schemes elsewhere, will the First Minister commit to rolling out such schemes across Scotland?

The First Minister: I will be happy to speak to either Strathclyde police or the local health board, whichever has been responsible for the pilots, and to provide Stewart Maxwell with a detailed reply.

Margaret Mitchell (Central Scotland) (Con): Given the worrying incidence of gang violence in Scotland, is not it now time for the First Minister

and his Government to take the lead in addressing the issue, and to put into practice the coalition's rhetoric on early intervention and curbing persistent youth offending by introducing youth courts for 14 and 15-year-old persistent offenders and by establishing a sentencing regime that is a real deterrent to repeat offenders, with the introduction of an additional tariff for anyone who faces a third custodial sentence?

The First Minister: I am sure that we will have debates on sentencing in the coming weeks, but I make the point to Margaret Mitchell that we already have a youth court in Scotland. More youth courts are being established. They are, from all the evidence, effective, which is why we support them and are making them happen.

Children's Hearings System

6. Bill Aitken (Glasgow) (Con): To ask the First Minister, following the recent announcement of an increase in the number of persistent young offenders, what measures are being taken to support the children's hearings system. (S2F-2772)

The First Minister (Mr Jack McConnell): In 2007-08, the Scottish Children's Reporter Administration will receive £27 million from the Executive, and the Executive will spend £1.4 million supporting the work of children's hearings system volunteers.

Investment in work to tackle offending behaviour generally has increased from £1.5 million in 2000-01 to £63 million in 2006-07, indicating the priority that we attach to the issue.

We also plan further reforms of the children's hearings system to develop and improve the current service in order to ensure that it has the right set up and adequate resources to do the best possible job to protect children and our communities.

Bill Aitken: I am sure that the First Minister will simultaneously agree that those volunteers do an excellent job and regret that one in three of them resigns every year. In many cases, that is caused by frustration. Does the First Minister agree that it is time to look into the operation of the children's hearings system, which was set up under a 1968 act? Will he look into revising the system to enable children's hearings to apply drug treatment and testing orders, to impose a more meaningful form of community service, and—as my colleague Margaret Mitchell has suggested—to take the more extreme cases of 14 and 15-year-olds out of the hearings system altogether and put them before the effective adult court for dealing with youth offenders, with the full range of disposals available to it?

The First Minister: Any of us who observe society today understand that the challenge is complex and requires a range of different actions and decisions. I reassure Bill Aitken that there has been a review of the children's hearings system. That review has reported, and I suspect that the issue will be a priority for a debate in the new session of the Scottish Parliament after 3 May.

In the meantime, it is important to reflect on the fact that, although we have to have tougher and faster justice and have to have youth courts and a children's hearings system that respond more quickly to issues that arise, we also have to ensure that young people in our communities have alternatives to the lifestyles that lead them into such scenarios. We also have to ensure that the families from which many of those young people come have support from a much earlier stage in order to ensure that the youngsters do not go off the rails in the future.

A range of different interventions is required. All of them will be important if we are to deal with one of the major challenges for society today, which is not just to do with youth justice but to do with the decline in standards and respect among a significant number—although a minority—of young people in certain communities.

12:30

Meeting suspended until 14:15.

14:15

On resuming—

Question Time

SCOTTISH EXECUTIVE

Finance and Public Services and Communities

Whistleblowing

1. Colin Fox (Lothians) (SSP): To ask the Scottish Executive what lessons have been learned from the experience of John Travers, who used whistleblowing procedures to make allegations about a possible financial irregularity in the City of Edinburgh Council accounts and who was subsequently the subject of disciplinary procedures. (S2O-12304)

The Deputy Minister for Finance, Public Service Reform and Parliamentary Business (George Lyon): Statutory guidance made under the Local Government in Scotland Act 2003 requires local authorities to have in place effective policies on fraud prevention and investigation and whistleblowing. It is for local authorities to establish those procedures and ensure that they are appropriate.

On the particular matter that Colin Fox raised, I understand that the City of Edinburgh Council is today considering an assessment of management, financial and human resources issues—including public interest disclosure—arising from the recent case involving the Edinburgh lifelong learning partnership, to which Mr Travers's allegations related.

Colin Fox: I am sure that the minister will agree that the case raises some serious questions about the effectiveness of the Public Interest Disclosure Act 1998, in particular the protection of those who seek to act as good citizens and bring problems to a council's attention.

Mr Travers, a loyal and long-serving public servant, approached the city council about irregularities that he saw in the running of the Edinburgh lifelong learning partnership. To his horror, rather than the council investigating why £400,000 of public money, including £180,000 belonging to the Executive, could not be properly accounted for, he found himself the subject of investigation and suspended from work. Despite winning an employment tribunal, he has not had his original job back, and he has been subject to repeated intimidation, which he believes his managers have done nothing to halt.

Does the minister accept that the experience of Mr Travers is hardly likely to encourage other loyal

employees to come forward when they see apparent wrongdoing? As the minister says, the council is meeting today to consider the matter. Will he ensure that Mr Travers and his family are fully compensated for the substantial losses that they incurred?

George Lyon: The Public Interest Disclosure Act 1998 is United Kingdom legislation that provides protection for workers who blow the whistle on, or raise a genuine concern about, malpractice. The 1998 act protects genuine whistleblowers from being victimised as a result of their actions, through, for example, reassignment of duties, failure to award salary increases and dismissal.

When the whistleblower is victimised in breach of the 1998 act, he or she may bring a claim to an employment tribunal for compensation. Awards are uncapped and based on the losses suffered. I understand that in 2006 Mr Travers won £5,000 compensation after an employment tribunal ruled that the council had failed in its duty to protect him.

The Presiding Officer (Mr George Reid): Question 2 has been withdrawn.

Public-private Partnership (Guidance)

3. Mr Adam Ingram (South of Scotland) (SNP): To ask the Scottish Executive what guidance and advice are given to local authorities on bridging any affordability gap for public-private partnership projects. (S2O-12253)

The Deputy Minister for Finance, Public Service Reform and Parliamentary Business (George Lyon): It is the responsibility of each local authority, as the procuring body, to ensure that its PPP project is affordable for the full length of the contract. It is a condition of any part-funding support provided by the Executive for a local authority PPP project that the local authority confirms to us that the project is affordable and that the local authority has the resources to carry it out.

Mr Ingram: In light of the minister's answer, I take it that he approves of the approach of South Ayrshire Council in imposing an additional 1 per cent levy on council tax payers to help bridge the gap in its schools PPP project. Can he confirm that future school rationalisation programmes would also be a legitimate tactic for South Ayrshire Council to employ to achieve the same end? According to the out-going Labour councillor Paul Torrance, just such a programme will be adopted for rural schools in South Ayrshire once the May elections are got out of the way.

George Lyon: It is not for me to comment on South Ayrshire Council's decisions. As with some other schools PPP projects, South Ayrshire Council identified an affordability gap during

procurement, but it was bridged prior to financial close. As the procuring body, the local authority must ensure that it can afford any project that it undertakes. It is up to the local authority to decide how it will afford the project in the longer term.

Robin Harper (Lothians) (Green): In the light of Malcolm Fraser's resignation from Architecture Scotland, will the Executive commission a review of sustainability and the environmental and educational value for money of schools PPP projects in Scotland?

George Lyon: I understand that Architecture Scotland is already working with us on that issue.

Efficiency Savings

4. Mr Stewart Maxwell (West of Scotland) (SNP): To ask the Scottish Executive how, in advance of publication of the Howat report, it is possible for the public to assess the achievability of the savings the Executive has targeted. (S2O-12254)

The Deputy Minister for Finance, Public Service Reform and Parliamentary Business (George Lyon): As we have always made clear, the recommendations of the budget review report are being considered as part of the preparation for the next spending review. The budget review report will be published when the spending review is completed. The public will be able to assess savings as part of the normal budget scrutiny process following the publication of the spending plans of the next Administration.

Mr Maxwell: Is it not the case that the current Lib-Lab Executive is well known for trying to hide reports that do not suit its spin? Will the minister give me a precedent for a report that has been sat on for a year before its intended publication, or is the Howat report so bad for the Executive that it is the only example of such inordinate delay?

George Lyon: As the member will know, advice to ministers is always protected. Ministers have always made it clear that once the spending review has been completed, the report will be made public. Indeed, a future Administration might decide to take an alternative position. However, today we give the guarantee that the Howat report will be published as part of the spending review in 2007.

Phil Gallie (South of Scotland) (Con): In achieving targets to reduce spending, will the deputy minister say to what extent the Executive has taken account of direction and regulation from the European Union? I point to the £15 million that has been wasted through compliance with EU regulations on tendering procedures for the Clyde ferries.

George Lyon: The minister made his position on the matter very clear yesterday. He and I agree that that money might have been better spent on investing in and improving services for our islanders. However, we have to comply with EU rules and regulations in this area. To date, none of the Opposition parties, which have traipsed many times to Brussels, has come back with an alternative view on how to comply with EU cabotage and maritime regulations.

Challenge 21

5. Margaret Jamieson (Kilmarnock and Loudoun) (Lab): To ask the Scottish Executive what action it is taking to promote challenge 21 to eradicate underage purchasing of alcohol. (S2O-12285)

The Deputy Minister for Finance, Public Service Reform and Parliamentary Business (George Lyon): The Executive is committed to tackling underage drinking, which includes addressing the availability of alcohol, and we welcome initiatives such as challenge 21. I visited a local Co-op not so long ago to see the good work that is being done to ensure that anyone who tries to buy alcohol demonstrates that they are of age.

As part of our updated plan for action on alcohol problems, we will continue to support the development of the new national entitlement card sponsored by Young Scot, which bears the proof-of-age standards scheme logo.

In addition, the Licensing (Scotland) Act 2005 requires all licensees to operate on a no proof, no sale basis, and on-sales premises that wish to allow access by children will be required to set out their plans for approval by the relevant licensing board.

Margaret Jamieson: Does the minister agree that licensees in the on-sales and off-sales trade who operate challenge 21 should be congratulated on their contribution to combating underage drinking in our communities? Does he further agree that licensing boards should do more to encourage those who do not currently operate challenge 21, and in certain cases make the initiative a condition of licence?

George Lyon: The roll-out of test purchasing throughout Scotland will mean that all off-sales and on-sales premises will need to ensure that they require people who buy alcohol to prove that they are the right age on a no proof, no sale basis. Test purchasing is the real driver in ensuring that responsible on-sales and off-sales premises challenge anyone who buys alcohol to prove that they are the right age before a sale takes place.

Housing (Rural Areas)

6. Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): To ask the Scottish Executive what support is being provided for rural affordable and socially rented housing. (S2O-12310)

The Deputy Minister for Communities (Des McNulty): We are doing a great deal to provide affordable housing in rural communities. This year alone, our investment in new affordable housing in rural Scotland is about £139 million, which is expected to provide more than 2,100 affordable homes. Together with planning policies that are tailored to rural development, changes to council tax discounts on second homes and significant investment in water and sewerage infrastructure, that demonstrates the strength of our commitment to Scotland's rural communities.

Jeremy Purvis: The minister will be aware that the former Minister for Communities, Margaret Curran, identified the Borders as an area of particular housing need. In that context, it is extremely welcome that Communities Scotland will invest £15 million in Peebles in my constituency in building 138 affordable and social rented homes, which will go a considerable way to improving the housing situation for my constituents. However, does the minister know that the information from the local housing forum is that 301 such homes will be required annually in the Borders? What is the current completion level in the Borders of social rented and affordable homes and what will the level be in the next five years?

Des McNulty: I cannot give the member information on completions. Next week, my colleague Ms Brankin will make an announcement on affordable housing for the Scottish Borders and other areas of Scotland. I am sure that members of all parties will find that announcement helpful.

Alasdair Morgan (South of Scotland) (SNP): Notwithstanding what the minister says about increased investment, and given the change in social circumstances that means that people are living in smaller and smaller units—which members can evidence from their casework—does he have any evidence that the gap between the demand for and supply of affordable housing in rural areas is narrowing at all?

Des McNulty: To an extent, demand is not under our control. As the member suggested, social factors are involved. However, increasing the volume of housing in rural and urban areas where there is a housing deficit is something that is under our control. We have increased the volume of affordable housing year on year for the past two or three years, and we intend to keep doing that.

Affordable Housing (First-time Buyers)

7. Mr Kenneth Macintosh (Eastwood) (Lab):

To ask the Scottish Executive what action it is taking to provide affordable housing for first-time buyers. (S2O-12291)

The Deputy Minister for Communities (Des McNulty): We are investing in the provision of nearly 5,000 new homes for low-cost home ownership in the current spending period. That includes the introduction throughout the country of the highly successful homestake shared-equity scheme, which makes it easier for those on low incomes, including first-time buyers, to own a home of their own. First-time buyers will also benefit from our wider actions to address affordability, such as the extensive planning reforms and the development that is being enabled by our massive investment in water and sewerage infrastructure.

Mr Macintosh: The minister referred to the successful homestake scheme, which is being used in East Renfrewshire, but is he aware of the difficulties that young people and families face in parts of that area? Potential first-time buyers who have been brought up and who live in the area can no longer buy locally and live alongside their friends and family. Does he acknowledge that it is often the least affluent and most vulnerable members of our community who are directly affected? Is he aware of proposals such as that in Greenlaw, where a housing development has been approved with the proviso that affordable housing must be provided? Can he reassure me that he will support and recommend such measures throughout the country, so that first-time buyers are supported nationally?

Des McNulty: The member will be aware that planning advice note 74 contains a requirement for 25 per cent of the housing in new developments to be affordable. In East Renfrewshire, we are providing funding to Arklet Housing Association to develop homestake properties at Greenlaw in Newton Mearns, and a further 30 units are planned for Auchenback via Cube Housing Association.

Part of the area in East Dunbartonshire that I represent experiences issues that are similar to those in East Renfrewshire, to which the member refers. I am aware of the problems faced by people who were born and brought up in a locality and have friends and family living round about but who find it difficult to get housing there, even if they have a strong priority need because of disability or some other issue. People in those circumstances require assistance, and the Executive will consider that.

Tricia Marwick (Mid Scotland and Fife) (SNP):

The minister must be aware that last year saw the

lowest number of first-time buyers on record and that the average age of first-time buyers is now 37. Although the schemes to which he referred are welcome, they are doing nothing to address the real problems that first-time buyers face. Will he consider doing more?

Des McNulty: If the member will forgive me, I will introduce a wee bit of reality. Of course we have fewer first-time buyers, because increasing numbers of people bought over the past 20 years and are now on to their second and third house. The proportion of first-time buyers will inevitably reduce, because of patterns of social change.

The efforts that the Executive has made to increase, through homestake and other mechanisms, opportunities for first-time buyers to come into the market are making some inroads. However, I am aware of the price of housing and the problems that people have. We are creating increased numbers of social rented housing and more opportunities for first-time buyers to buy their own homes through the mechanisms that I have described, and we will continue to do so.

Housing (Glasgow)

8. Bill Butler (Glasgow Anniesland) (Lab): To ask the Scottish Executive what progress has been made with regard to second-stage transfer of Glasgow housing stock. (S2O-12276)

The Deputy Minister for Communities (Des McNulty): Scottish ministers remain committed to extending community ownership in Glasgow. In December, my predecessor wrote to the board of Glasgow Housing Association setting out a framework for taking forward second-stage transfers and re-affirming the Executive's intention of achieving some early transfers. I have had meetings this week with different housing associations in that regard.

The Glasgow stock transfer is already delivering a massive deal for tenants in Glasgow, including around £450 million of investment over the past four years alone. That equates to GHA spending around £1 million every two days on tenants' homes. The increased investment has already delivered substantial, real improvements for tenants, including more than 28,500 new central heating systems, some 11,000 kitchens and 11,000 bathrooms and more than 34,000 new secure doors.

Overall, the transfer has delivered around £1.5 billion for tenants in Glasgow—a substantial achievement by this Labour-Liberal Democrat Executive.

Bill Butler: The minister will be aware that, despite the Executive's best efforts to promote second-stage transfer, there remains a widespread concern that GHA is not fully

committed to that process. One of the key objectives of the original stock transfer to GHA, along with improving homes and achieving regeneration—which are welcome objectives—was to achieve greater local accountability and control. Therefore, will the minister outline precisely what progress has been made on achieving a key conclusion of a report that was delivered to his predecessor in December 2006, which was that

“a substantial restructuring of the LHO network in Glasgow ... to help facilitate a series of transfers to a smaller number of viable and sustainable organisations subject to tenant ballot”

was needed? When are we going to get those transfers?

Des McNulty: The letter from Malcolm Chisholm, which is available on the Communities Scotland website, makes it clear that, between now and the summer, ministers and Communities Scotland will be working with GHA to identify and support any organisations that are able to move forward to second-stage transfer under the current arrangements. Following that, we will work with GHA and the local housing associations to take forward a restructuring of the local housing organisation network to create an affordable structure for second-stage transfer that is in the best interests of tenants.

Town Centres (Regeneration)

9. Dr Elaine Murray (Dumfries) (Lab): To ask the Scottish Executive what action it is taking to regenerate town centres. (S2O-12298)

The Deputy Minister for Communities (Des McNulty): It is me again, I am afraid, Presiding Officer.

The Scottish Executive is committed to supporting regeneration throughout Scotland for the benefit of all our diverse communities. We set geographic priorities to act as a catalyst for growth and regeneration throughout Scotland, including in a number of small towns. To support that, a range of funding is available for the regeneration of town centres, including housing investment and the community regeneration fund.

Dr Murray: The minister will be aware that one problem in towns such as Dumfries, Annan and Lockerbie in my constituency is empty properties that are owned by absentee landlords. What steps can the Executive take to help and encourage local authorities to purchase compulsorily such properties and return them to productive use?

Des McNulty: I am aware of the problem, which exists not just in Dumfries but in Paisley and many other places throughout Scotland. The Executive cannot do a huge amount directly through compulsory purchase orders, but we can help

local authorities to work out a strategy for dealing with vacant properties and set a framework within which they can be brought into alternative use.

We need to consider the problem carefully, because it is a structural problem in town centres. We need an approach that has been carefully thought through, rather than our simply saying that it can be solved easily. If it could be solved easily, it would have been solved before now.

Education and Young People, Tourism, Culture and Sport

Outdoor Education

1. Mr Charlie Gordon (Glasgow Cathcart) (Lab): To ask the Scottish Executive whether it resources the provision of residential outdoor education courses for primary and secondary school pupils. (S2O-12281)

The Deputy Minister for Education and Young People (Robert Brown): Outdoor education can make a valuable contribution to the broad educational experiences that we want young people to have. The Executive provides education authorities and others with a number of funding streams that they can use to provide residential outdoor education courses for their pupils.

Mr Gordon: I have seen many letters from pupils who have undertaken residential outdoor education courses at Glasgow City Council's outdoor education centre at Rhu. Those letters—and similar ones from teachers and parents—testify to the great contribution that such courses make to young people's social and personal development. The main means of funding placements on such courses is fundraising by schools. Given the courses' established value and the contribution that they make to tackling the problem of young people who are not in education, employment or training, will the minister consider funding such courses from grant-aided expenditure?

Robert Brown: I fully support the idea of making opportunities available to young people, not least in outdoor education. As I said, there are a number of funding streams, and it is primarily for local authorities to take the matter forward within the broad gamut of their GAE and other funding.

We provide some funding from central sources—for example, to Scottish Centres and the YMCA, which make a valuable contribution. A number of local authorities have used the funding streams that are available from the Executive, such as the national priorities action fund and the out-of-school-hours learning fund, which preceded it. Quite a lot of local authorities—although not, I think, Glasgow City Council—have used that

funding stream to support outdoor education. Money is also made available through community education.

Outdoor education is a matter for partnership between different levels of government, but local authorities are the primary organisers of activity because they are responsible for schools.

Dave Petrie (Highlands and Islands) (Con): In the spirit of encouraging outdoor activity for pupils, and following Patricia Ferguson's comments on the radio this morning, will the minister acknowledge the benefits that flow from schools dedicating, say, Friday afternoons to extra-curricular activities?

Robert Brown: A number of authorities already do that. I think that I am right to say that it happens in Edinburgh and the Lothians. It is certainly one way of tackling the issue.

The approach is part of a gamut of policies that are designed not just to give people wider experiences in physical education, but to tackle obesity. Such policies should not be imposed from the centre; it is for local authorities to make the appropriate arrangements. However, the Scottish Executive strongly supports the widening of opportunities in physical education and wants to take the matter forward, for example through the funding streams that we operate.

Mr Petrie might be interested to hear that a Scottish outdoor learning festival is planned for 30 April, which will bring together a wide range of organisations and professionals and offer them opportunities to reflect on reports, share good practice and build partnerships that might well be vehicles for taking forward suggestions such as those that he and Charlie Gordon made.

Donald Gorrie (Central Scotland) (LD): In addition to council-operated centres, the national centres, to which the minister referred, could be funded much more generously. Their facilities are not much used. Given the great benefit that outdoor and residential education brings, will the minister consider Charlie Gordon's plea for a fund that could help more use to be made of all centres by people from all orders of life?

Robert Brown: Donald Gorrie makes a good point. Throughout the country, full use needs to be made of the various capital resources that are available to local authorities and Scottish Centres. There has been a fair bit of co-operation between organisations that are involved in outdoor education, to ensure that organisations are aware of each other's facilities and that there are suitable booking arrangements, for example. We might well be able to do more.

The unified voluntary sector fund supports Scottish Centres and others in that connection.

Next week we will produce the Scottish youth work strategy, which will contain matters of relevance and interest to Mr Gorrie and others in the context of outdoor education.

Outdoor education is important and has been shown to make a valuable contribution to young people's educational experiences. We want to do everything in our power to support and extend provision.

Education (Children with Additional Support Needs)

2. David McLetchie (Edinburgh Pentlands) (Con): To ask the Scottish Executive what consideration it has given to the implications of recent court and tribunal decisions for the education of children with additional support needs. (S2O-12262)

The Deputy Minister for Education and Young People (Robert Brown): Court and tribunal decisions are taken according to the individual circumstances. General issues will be considered as and when appropriate.

David McLetchie: Is the minister aware that 39 per cent of placing requests for grant-aided or independent special schools are refused by local authorities, and that the additional support needs tribunal has not once upheld an appeal relating to a placing request made by a parent? He is aware that when the Education (Additional Support for Learning) (Scotland) Act 2004 was passed, fears were expressed that special schools would lose out and cost considerations would take precedence over the educational needs of children. In the light of decisions to date, will the minister review the operation of the 2004 act as it impacts on such schools?

Robert Brown: We said from the outset that we would keep the 2004 act under review. Her Majesty's Inspectorate of Education will conclude its inspection of the act's operation later this year and we will review the matter in that context. To support implementation of the 2004 act and to help inform practice, we have set up a national advisory group, which might well be able to consider not just matters to do with the tribunal but broader issues.

The 2004 act came into force relatively recently and a reasonably small number of references have been made to the tribunal—I think that there have been around 42 references and 20-odd decisions. We must move forward a little so that we can gain perspective and consider the wider issues that emerge from judgments. From April, we intend to publish anonymised decisions on the additional support needs tribunals for Scotland website, which will give coherence to the consideration of the decision-making process.

Primary Schools (Literacy and Numeracy)

3. Jackie Baillie (Dumbarton) (Lab): To ask the Scottish Executive what action it is taking to improve literacy and numeracy in primary schools. (S2O-12273)

The Minister for Education and Young People (Hugh Henry): The Executive is promoting a variety of initiatives including the home reading initiative, Scotland reads, and number partners. In addition, bookstart Scotland aims to support pre-school children. Good examples in West Dunbartonshire include Aitkenbar primary school and St Peter's primary school, which have set up a joint homework club to develop numeracy skills using technology.

The development of literacy and numeracy will be a key theme across the curriculum, with all teachers having responsibility for promoting language, literacy and numeracy development.

Jackie Baillie: I thank the minister for highlighting the success in West Dunbartonshire. He will also be aware of the council's literacy initiative. Recent evaluations tell us that the initiative is succeeding in completely wiping out illiteracy, particularly in disadvantaged areas. For example, in 1997, 5 per cent of primary 1 children had very high scores on word reading, but today the figure is 45 per cent and still improving. Among primary 2 children, 11 per cent had very low reading scores, but today the figure is less than 1 per cent and still decreasing.

The Presiding Officer: A question please.

Jackie Baillie: One in three children leaving primary school was functionally illiterate, but now virtually none is. Will the minister commend all the staff involved and learn from the approach so that children from across Scotland, and not only those in West Dunbartonshire, can get the best possible start in life?

Hugh Henry: I certainly commend the staff for their dedication and enthusiasm and for the results achieved. I am aware of a number of initiatives in different parts of Scotland. We leave it to people locally to decide on how to develop those initiatives.

We are willing to learn from good experiences. There are different views in different parts of Scotland about different initiatives and their merits. What has been achieved in West Dunbartonshire is interesting and I will certainly want to reflect on it. I am aware of initiatives such as one in Clackmannanshire that have achieved good results too. The professionals in each local area are best placed to make the relevant decisions for the children in their schools. However, I join Jackie Baillie in commending the significant improvements in West Dunbartonshire.

The Presiding Officer: Question 4 has been withdrawn.

Teachers (Gaelic)

5. John Farquhar Munro (Ross, Skye and Inverness West) (LD): To ask the Scottish Executive what action it is taking to encourage more people to take up careers as Gaelic teachers. (S2O-12316)

The Minister for Education and Young People (Hugh Henry): We established a ministerial action group on Gaelic teacher recruitment, appointed a Gaelic teacher recruitment officer to implement the recommendations of the group, supported new routes into Gaelic teacher training and provided a course to enable Gaelic-speaking teachers to transfer to Gaelic-medium teaching.

John Farquhar Munro: I am sure that, like me, the minister welcomes the expansion of Gaelic-medium education in many areas of Scotland, particularly the Highlands and Islands, where Gaelic-medium education is provided in both primary and secondary schools. A new Gaelic school is being purpose built in Inverness; what initiatives will the Executive promote to ensure that qualified teachers are available to fill the posts?

Hugh Henry: I have outlined some of the specific actions that we are taking to encourage more people to take up careers as Gaelic teachers. I join John Farquhar Munro in complimenting the schools that are being developed. I have visited a Gaelic unit in a primary school in Oban and I have visited the new Gaelic school in Glasgow. I confess that the latter was an eye-opener, not only because I saw the clear enthusiasm in the Glasgow school but because I saw the relevance that the people in Glasgow, who did not live in a Gaelic-speaking community, saw in having their children educated through Gaelic.

I am aware of the new school in Inverness. We are committing substantial resources to expanding the teaching of Gaelic in Scotland. However, as John Farquhar Munro rightly points out, this is not just about money and commitment. If we do not have the teachers to support it, the initiative will not make progress. I hope that the measures that we are putting in place will build on what has undoubtedly been a success to date.

Meadowbank Stadium (Closure)

6. Mark Ballard (Lothians) (Green): To ask the Scottish Executive what impact closure of the former Commonwealth games stadium at Meadowbank in Edinburgh would have on the provision of athletics facilities in east central Scotland. (S2O-12318)

The Minister for Tourism, Culture and Sport (Patricia Ferguson): The City of Edinburgh Council published a draft development brief for public consultation in December 2006. The brief set out the council's intentions for the Meadowbank site. Comments are sought by 30 March. The decision to replace Meadowbank sports centre with a new facility at Sighthill was taken by the City of Edinburgh Council. Sportscotland will continue to work with the City of Edinburgh Council on its sports facilities strategy.

Mark Ballard: Is the minister aware that the current plans for the Sighthill facility have no provision for an area for throws training—an athletics discipline in which many Scots excel, from Olympian Chris Black in the 1970s to current Olympian Shirley Webb? Is she aware that the proposed new stadium at Sighthill is only 2 miles away from the existing track at Saughton enclosure? From east Edinburgh, East Lothian and Midlothian, access to facilities will be severely diminished. Does the minister believe that relying on the sale of existing—albeit neglected and ill-maintained—stadia to fund the building of new stadia is a sustainable policy?

Patricia Ferguson: The issue of the throws area should be raised in the public consultation, and I have no doubt that the City of Edinburgh Council will reflect on it. However, the situation concerning Meadowbank is not quite as simple as has perhaps been stated. The ultimate situation will depend very much on the decisions that are made by the City of Edinburgh Council following its consultation. I was pleased to note that a key element of the draft development brief is the inclusion of a local sports centre to replace some of the current facilities at Meadowbank, in addition to what is planned for Sighthill. I hope that that reassures the member.

David McLetchie (Edinburgh Pentlands) (Con): Is the minister aware that the proposals for Sighthill, which is in my Edinburgh Pentlands constituency, will contribute significantly to the regeneration of that area, in tandem with the recent proposals announced by Napier University? Does she agree that they will, to an extent, offset the failures on the housing front arising from the housing stock transfer ballot, which does not augur well in respect of high-rise housing in the area? Is she further aware that the proposed stadium at Sighthill incorporates a running track and is intended as a dual-purpose stadium for athletes and those who play rugby and soccer?

Patricia Ferguson: As one would expect, Mr McLetchie makes a good case for his constituency, which shows the complexity of the issues that the City of Edinburgh Council will have to address. However, the project has the potential to have significant regeneration impacts on

Sighthill. Cultural and sporting facilities can often have such an effect, and I have encouraged my colleagues across the chamber to take that view. I am particularly aware of the situation in Sighthill, having recently visited the excellent Sighthill library as part of a launch that was organised by bookstart. I was pleased to hear that the plan is that the new stadium should be able to give some focus to what is happening elsewhere in Sighthill.

Public Library Service

7. Christine May (Central Fife) (Lab): I remind the Parliament of my entry in the register of members' interests as chair of the Scottish Libraries and Information Council.

To ask the Scottish Executive how it will improve standards in the public library service. (S2O-12289)

The Minister for Tourism, Culture and Sport (Patricia Ferguson): A new public library quality improvement matrix has been developed and, after the completion of successful pilots, will be launched very soon. The matrix is designed to be used by local authorities as a self-evaluation tool to encourage continuous improvement in public library services. The Scottish Library and Information Council has developed the matrix in partnership with local authorities, with new funding of £500,000 per year from the Scottish Executive.

Christine May: Is the minister aware that the quality improvement matrix that is due to be launched has generated interest from the Department for Culture, Media and Sport and the Audit Commission in England, and from the Governments of Australia and New Zealand? Will she join me in congratulating those who were involved in developing it?

Is the minister aware that Fife Council has recently taken a decision to close certain libraries in Fife, including Pitteuchar in Glenrothes, in some cases as a result of the condition of the buildings? Will she join me in urging Fife Council not to close the facilities until adequate alternative provision is in place? Will she agree to meet me to discuss what suggestions I can make to the council to achieve that?

Patricia Ferguson: I am not surprised that others are interested in the progress of the work that is being done on the quality improvement matrix. The feedback from the eight pilot projects shows that there can be very positive results for library communities. I am sure that the interest from elsewhere will increase as time goes on, particularly following the launch of the matrix.

I am aware of the situation in Fife, and I would be happy to meet Christine May to discuss what may be done.

Presiding Officer's Ruling

14:55

The Presiding Officer (Mr George Reid): I will now deal with the point of order that Stewart Stevenson raised yesterday evening.

Mr Stevenson was concerned that the answer to a written question that he had received had subsequently been contradicted by an Executive press statement. Having looked into the matter, I can confirm that, regrettably, that was indeed the case. The Minister for Justice has since written to Mr Stevenson and to me to apologise for the lapse and to reiterate the Executive's commitment to the provision of prompt, accurate and helpful answers to parliamentary questions. I welcome that open and speedy response from the minister, and I now consider the matter closed.

Motion Without Notice

14:56

The Presiding Officer (Mr George Reid): The Minister for Parliamentary Business wishes to move a motion without notice.

Motion moved,

That, under Rule 11.2.4 of Standing Orders, Decision Time on Thursday 8 March 2007 be taken at 4.00 pm.—
[Ms Margaret Curran.]

Motion agreed to.

Protection of Vulnerable Groups (Scotland) Bill

The Presiding Officer (Mr George Reid): The next item of business is a debate on motion S2M-5631, in the name of Hugh Henry, that the Parliament agrees that the Protection of Vulnerable Groups (Scotland) Bill be passed.

14:56

The Minister for Education and Young People (Hugh Henry): I thank my parliamentary colleagues, particularly members of the Education Committee, for their constructive and valuable input during the passage of the bill. I also thank the many individuals and organisations who provided the Education Committee and the Finance Committee with evidence and those who engaged constructively and positively with the Executive throughout the bill's journey. A huge amount of work has been put into the bill. I pay tribute to the Executive bill team, who have worked assiduously in responding to many questions and comments and in supporting Robert Brown and me.

As I came relatively late to the development process of the bill, I acknowledge Peter Peacock's contribution to constructing and formulating the detail of the bill. I pay particular tribute to Robert Brown, my deputy, for the way in which he engaged with the Education Committee and with voluntary organisations throughout Scotland. He listened to them and worked extremely hard on some of the amendments that we discussed this morning. Robert is due a vote of thanks from all of us for helping to get the bill into its final shape. There is no doubt that that commitment and sharing of knowledge has led to a refined and improved bill, which will deliver a robust and efficient vetting and barring scheme for Scotland.

The scheme will ensure that those who are proven to be unsuitable do not get access to children. Significantly, and for the first time, those people will also not get access to protected adults through work or volunteering. We all owe it to vulnerable members of our society to do what we can to protect them from those who would seek to inflict harm or danger on them.

The scheme greatly reduces the bureaucratic burden of multiple disclosure checks and allows information to be continuously updated. It also dovetails with measures south of the border, thus ensuring that Scotland does not become a safe haven for those who would abuse vulnerable people.

It is right to put on record the fact that the vast majority of people who work with children and

protected adults are committed and caring. They do a fantastic job. In many circumstances, they do work that is above and beyond the call of duty. They enhance greatly the quality of life of those with whom they work. However, regrettably and tragically, there is a minority of people who would do harm to those who are most in need of our protection and, often, those people try to use a job or a volunteering position as a means of gaining access to those vulnerable individuals.

The bill's purpose is to stop those people. It provides employers with an additional tool that, used in tandem with other safer recruitment measures, will begin to make a difference. That will help to ensure that they—and the rest of us—can be confident that reasonable steps have been taken to keep unsuitable people out of the workplace.

Since the stage 1 debate in January, more than 300 amendments have been lodged that have led to a number of substantial improvements to the bill, including altering the definition of “protected adult” to ensure that it is based on prescribed health and welfare services; giving further assurances and reassurances in relation to fees, which we discussed this morning; and introducing retrospective checking by regulation, using the affirmative procedure.

With regard to the sharing of child protection information, the Scottish ministers agreed—with considerable reluctance—to support the amendment to withdraw part 3, but we remain convinced that the provisions in that part of the bill are vital to address information sharing. I hope that the Parliament will return to that issue at the earliest opportunity.

We intend to publish a draft code of practice at the earliest opportunity. Although it will be a non-statutory code, it does not preclude information sharing being underpinned by legal duties at a future point. However, the passing of the bill is only one step towards having a modern, streamlined vetting and barring system. The next stages are vital and I want to reaffirm the Executive's commitment to undertake full and detailed consultation on all aspects of implementation and significant secondary legislation. We will do that through a range of forums and groups and through consultation papers and events involving those who have an interest. In addition, we have made a commitment to lay before Parliament an annual report on the performance of the vetting and barring functions.

We have no interest in implementing the bill in a way that denies the benefits that should flow from the new scheme. We have no desire to undo all the good work that has been done to promote and encourage volunteering in Scotland. We remain supportive of the sector in policy and financial

terms. We believe that voluntary organisations deserve to have the same confidence in their staff as statutory and private organisations have in their staff and volunteers.

The bill will not restrict the number of people who can work or volunteer in the vulnerable groups workforce. It does not require parents who are helping teachers out at a school event to be checked, nor is it intended to curb children's normal, everyday physical and intellectual activities. The focus of the bill is on ensuring that unsuitable people do not come into contact with those who need protection. I think that the bill delivers a robust and effective scheme that is proportionate and sensible and is linked to recruitment processes and local risk assessment. I commend it to the chamber.

I move,

That the Parliament agrees that the Protection of Vulnerable Groups (Scotland) Bill be passed.

15:03

Mr Adam Ingram (South of Scotland) (SNP): I pay tribute to the work of the Education Committee's members and clerks and acknowledge Robert Brown's willingness to respond positively to the committee's concerns about this technically complex bill.

As a result of the dropping of part 3, on information sharing, and the amendments that were made at stages 2 and 3, the bill has been significantly streamlined. Indeed, some might say that it now appears to be something akin to a vehicle for subordinate legislation. There are, of course, inherent dangers in that. The devil is in the detail, and the Executive was unable to fulfil its undertaking to provide drafts of its subordinate legislation proposals prior to stage 2. Will future secondary legislation receive the level of scrutiny that the bill received?

The Deputy Minister for Education and Young People (Robert Brown): I think that I am right in saying that the Executive did not undertake to provide drafts of the subordinate legislation in response to the committee's demands. We said that we would come up with the policy arrangements that underlie the bill, which we delivered to the committee.

Mr Ingram: That is not quite my recollection, but the point I went on to make was whether future secondary legislation will receive the same level of scrutiny as the bill received. Let us hope that it will.

Although we have been sceptical about the benefits of pushing ahead with the bill at this stage in the session—remember that a great deal of consultation has still to be conducted and the act will not be commenced until 2009; I stand to be

corrected on that—we do not take issue with the broad thrust of it, which is to provide children and vulnerable adults with better protection from abuse by people who work with them. Nor is there any significant opposition to the notion that a registration scheme of the type recommended by the Bichard report should be established.

We should all be sceptical about the capacity of bureaucratic processes and procedures to provide watertight protection of children and vulnerable adults—they will not do so—but at least they provide a logical first line of defence, which I hope will ensure that anyone who has a record of harming children or vulnerable adults will not be hired to work with them.

The bill is an improvement on the regime under the Protection of Children (Scotland) Act 2003, owing to the introduction of continuous updating of disclosure checks and an end to multiple applications. However, it is important to recognise its limitations. We cannot afford to be lulled into a false sense of security by a tightening of the law. There are people who do not have a recorded history of harming vulnerable people but who are potential offenders and must be detected and prevented from causing harm. That is why we need to extend the debate about the protection of vulnerable groups beyond legislation and into policy and practice.

We must recognise that the risk of harm cannot be eliminated, but the risks should be minimised and dealt with proportionately. That is not what is happening, however, and the result is a distortion of the relationship between adults—particularly men—and children. We have almost reached the stage at which the motivation of any man who wishes to work with children is automatically questioned. It is little wonder that many men now choose not to put themselves in such a position.

I accept that the minister has made significant concessions that should help to reassure the voluntary sector that it will not be unduly burdened by matters such as retrospective checking and fees for disclosure checks. However, as he said, that has been the easy part of the legislative process. The hard part—implementing the act—is still to come.

In the years to come, the act will need to be closely monitored. It is surely a prime candidate for post-legislative scrutiny in the next session. We must guard against unintended consequences. The biggest potential downside to the bill is that it might reduce the voluntary sector's capacity to deliver services to children and vulnerable adults by diverting resources to administering the protection system or by deterring volunteers. That is another reason to remain vigilant in considering the framework of protection for vulnerable groups. On that basis, we will support the bill.

15:08

Lord James Douglas-Hamilton (Lothians)
(Con): I welcome everything Adam Ingram said and I thank both ministers for their sensitive handling of what has been, if I may say so, a difficult bill. I also thank the clerks and the members of the Education Committee.

It is the inescapable duty of us all to go that extra mile to protect children and the more vulnerable adults from harm. Since the bill improves upon the existing framework for doing that, we will certainly support it.

The continuous updating of vetting records and the innovation of short scheme checks address two of the major flaws of the current disclosure system. There is now much less likelihood of no action being taken when new information is uncovered that could give rise to concern about a regulated employee. Furthermore, there will be less duplication as the need to check an employee from scratch each time he moves employer will be eliminated.

I hope that a consensus exists that proper consultation with all relevant and legitimate interests ought to be a prerequisite for all proposed legislation that the Parliament considers. That is important to ensure that legislation is well drafted and workable and to maintain good will with people who will be affected directly. If that does not happen, we will have to revisit the legislation after a few years, to amend it.

The removal of what was part 3 is to be welcomed. Nonetheless, as Hugh Henry said, it is important to deal speedily with information sharing in future legislation. That will benefit greatly from the proper consultation that postponement until after the official deadline of the election makes possible.

The Scottish Council for Voluntary Organisations thinks that the new scheme will force 850,000 people to be background checked in the phasing-in period. I accept that the new vetting and barring scheme will offer far more protection than the outgoing scheme, but the Executive should introduce retrospective checking sensitively with full regard to the consequences for voluntary organisations and charities.

Fees will hit the voluntary sector hardest. I hope that heed will be paid to the consultation responses. The burden will be heaviest in the phasing-in period. I argued earlier today for the voluntary sector to be exempt. I did not put that proposition to the vote, but the Executive disregards that issue and the voluntary sector's plight at its peril.

The Parliament and the Education Committee have invested much time in scrutinising several

measures that are aimed at improving child protection in the widest sense. In the light of the Soham tragedy and the Bichard inquiry, we have had to rethink all our arrangements. The bill undoubtedly serves an important need.

The many details that are not specified in the bill should be resolved after careful consultation with the people who are most directly involved. The bill should then be implemented in a measured fashion. It might fall short of perfection because of the speed with which it was thrust through Parliament, but we are right to support it. It will represent a significant advancement for the protection of children and vulnerable adults.

Yesterday and today, an exhibition has been held in the Parliament called "Grandparents Speak Out for Vulnerable Children". At the stall, a book was issued that told of grandparents' journey from devastation to the Scottish Parliament. It is our responsibility to ensure that their words echo down the corridors of power to ministers' offices and ultimately to the desks of Mr Hugh Henry and Mr Robert Brown. If I may, I will, at the end of the debate, present to them their own copies of that book. It is essential that ministers and MSPs give vulnerable groups the protection, support and hope that they deserve.

15:13

Iain Smith (North East Fife) (LD): The bill that we are considering now is very different from and considerably better than the bill that was introduced on 25 September last year. Broad support was given to the policy intent of the bill as introduced, which was to introduce a streamlined vetting and barring scheme to prevent people who are unsuitable to work with children from working with them and to extend that protection to vulnerable adults.

We must not forget that 85 per cent of children who are abused are not abused by people who are at work or in voluntary organisations; they are abused in their homes by people they know—family, friends or relatives. We must bear that important point in mind while we consider the bill. It will not protect all children, but it will reduce the risk for children while they are at school, in playgroups or in contact with voluntary organisations.

We should not forget that significant concerns have been expressed about how the bill will operate in practice, particularly its implications for volunteering and the voluntary sector. One concern is that the bill leaves too many questions unanswered and that too much detail is being left to secondary legislation and guidance that will not be available until after the bill has been passed. We touched on some of those issues this

morning—they include retrospective checks, fee levels, the definition of regulated work, the applicant's rights and the sharing of child protection information.

Underlying those concerns is the fundamental question whether the bill amounts to a proportionate response to the issues that arose in, for example, the Soham case and the Bichard inquiry. There is also uncertainty about whether it provides the right level of protection to allow children to take full advantage of educational and recreational opportunities, or whether it will fuel the climate of risk aversion that restricts such opportunities.

Although the amended bill leaves much of the detail to regulation and guidance, I am confident that it can provide reassurance in the key areas that I have mentioned. That is in no small measure thanks to the work of the Education Committee. As convener of that committee, I put on record my appreciation for the diligent and responsible way in which my colleagues on the committee handled this delicate issue. I also thank the committee clerks for their excellent work in supporting the committee, and the many witnesses who gave oral and written evidence at stage 1 and prior to the commencement of stage 2.

Throughout our consideration of the bill, the welfare and best interests of children and vulnerable adults have been our paramount concern. Members will recall that, in our stage 1 report, the committee recommended that part 3, on the sharing of child protection information, should be deleted. I state once again—as I did when I moved the amendments to remove part 3 at stage 2—that the removal of part 3 should not be taken to imply that the Parliament does not believe that appropriate child protection information should not be shared when that is necessary to ensure the protection of children, but we must also ensure that the right of children to confidentiality in accessing services is protected, so that we do not inadvertently put children at risk by deterring them from accessing the services they need.

The committee was strongly of the view that stage 2 should not commence before the relevant draft regulations and guidance had been published and consulted on. In the event, the Executive was able to publish only the policy options that would be consulted on, but that enabled the committee to take the unusual step of taking further oral evidence prior to stage 2, which helped to inform the process during stage 2.

I am grateful for the co-operation the committee received from the minister, Robert Brown, and the bill team. I thank them for the positive way in which they responded to the committee's requests for additional information and advice on the bill

and the way in which they responded to the committee's concerns by lodging appropriate amendments at stages 2 and 3. Working together, the committee and the Executive have produced a bill that is now fit for purpose. There will, however, be a need for diligence by our successor committee in the next session, to ensure that the commitments the Executive has given are translated into the regulations and guidance that will flesh out the bones of the scheme.

A few weeks ago, I did not think that I would be able to stand here today and say that I commend the bill to the chamber.

15:17

Dr Elaine Murray (Dumfries) (Lab): Like many others, including members of the Finance Committee and the Education Committee, I came to stage 1 of the bill with significant concerns because of the issues that had been raised, especially by the voluntary sector, and most of all by groups representing the interests of children, such as Children 1st and Children in Scotland. There was no perceived problem in supporting the bill's improvements on the Protection of Children (Scotland) Act 2003, such as streamlining the vetting and barring system and ensuring its coherence with the legislation that was passed in England and Wales, but there were concerns—as we heard earlier today—about the scope of the bill and the fact that it included statutory duties to share information, which had not been subject to the same degree of consultation as the rest of the bill.

There were also concerns about how retrospection would work. Those concerns were not new to the Education Committee, as they had been raised with us in the context of POCSA—as the deputy minister knows from his previous role as convener of the Education Committee. We were aware that it was a difficult issue. The financial memorandum to the bill also suggested that around 20 per cent of the Scottish population might eventually be drawn into the scope of the bill, and there were worries about how small voluntary sector organisations would cope and whether scheme membership would deter people from volunteering.

We have found ways of dealing with that. Retrospection will be dealt with in secondary legislation that is subject to the affirmative procedure, which will enable Parliament to judge whether it is appropriate. Provisions on the issuing of ministerial guidance have been included in the bill, which is crucial in ensuring that all organisations do not become so risk averse and concerned about litigation that they insist on the highest possible level of disclosure for even the most minor interactions with children.

The fact that there were only five non-Executive amendments at stage 3 bears testament to ministers' consideration of the issues that were raised by witnesses and the amendments that were lodged by committee members at stage 2. The bill team and the committee should be commended for being able to work well together. That contrasts with what happened in England and Wales, where the legislation was passed without any questions being asked and it was only afterwards that people began to think, "Oh dear, there may be problems with this."

On the removal of part 3 of the bill, there is no suggestion that the sharing of information is not crucial. Speaking as someone who represents the constituency in which young Kennedy McFarlane was killed by her mother's partner, which happened because agencies did not share information, I of all people am not going to argue that information sharing is not important. The committee's only real concern was about how the statutory duty would affect groups that offer counselling to survivors of abuse or to children who have been abused. That was one of the main concerns that was brought to us, and it was why we felt that further consultation was necessary. However, the situation ought to be addressed in the next appropriate piece of legislation in the next parliamentary session.

15:20

Mr Kenneth Macintosh (Eastwood) (Lab): Much as I welcome the bill, I am saddened by the circumstances that gave rise to it. The Soham murders and other horrific child abuse cases have grabbed our consciousness in the past few years and not only brought misery to those who were directly affected but scarred us as a country. However, as the minister, members of the committee and others have commented, the biggest child abuse problem is caused by parents and other carers neglecting those who are entrusted to their care. I am therefore pleased that the Executive is taking steps to address that through a range of measures, including the "Hidden Harm" agenda.

Nevertheless, as a country and a society, we seem to have developed an incredible anxiety about strangers. We are less trusting of others and we have grown more fearful. We can point to many factors that might have led to that anxiety: we are a more mobile society, the family unit has seen a breakdown, there is less communal living and we do not know our neighbours. When I was younger, people knew who they lived alongside to a far greater extent than we do now. Of course, that was not always healthy because, although people always knew each other, someone who got above themselves would be reminded by others that they kent their father, too.

Whatever the reasons for the breakdown of trust in our society, it has left us looking elsewhere for security, hence the need for laws such as the Protection of Vulnerable Groups (Scotland) Bill. Although we might need occasionally to remind ourselves of this, the vast majority of those whom we live alongside—the people we do not know as well as those we do—are trustworthy. The bill and the disclosure system are based on the premise that, on or off the record, officially or unofficially, there is nothing about most people that should make us question their suitability to care for a vulnerable adult or that should create anxiety in a parent.

Some of our early discussions on the bill focused on the concern that we might aggravate a climate of mistrust in our society, or that we might be pandering to the risk-averse culture in which we find ourselves. If that were the case, I would worry. However, the bill is about reassuring people and ensuring that we, as parents, can have confidence that our children are safe in the hands of the adults to whom we entrust them, and that the very small number of dangerous or depraved individuals who might be at large are not allowed to exercise, and so potentially abuse, positions of responsibility.

The bill extends to vulnerable adults the protections that were previously available to young people. It is also a major step forward for the portability of the disclosure system. When the original disclosure legislation was passed, one of its biggest bugbears was that a new disclosure was required for every activity involving helping or supervising young people that an adult engaged in. The new system will allow an individual to apply for one positive vetting statement and for regular updates to be given to employers if they are required.

As we look forward to the implementation of the legislation and of other child protection measures that are due to come into effect, I wonder if this is not the time to address our concerns about the risk-averse, overly cynical and suspicious culture that we find ourselves developing. Of course, that is not just about child protection legislation; it is about our propensity to sue or to litigate every time anything goes wrong. It is about the blame culture and the criminalisation of health and safety matters. Those who are in positions of responsibility and power therefore do not know where their responsibility ends and our liability as individual adults to make informed choices begins.

I, for one, do not wish to live in a fearful and suspicious culture. I do not like it that teachers or the janitor, for example, cannot give a reassuring cuddle to a child who has been hurt in the playground. If a man volunteers to work with vulnerable adults or young people, we should be

grateful, not suspicious. When a parent agrees to help out to ensure that a school trip or show goes ahead as planned, we need to rely on our judgment first in accepting their help.

The disclosure system and the vetting and barring information to which we now have access is just corroborative evidence to support our judgment about an individual's trustworthiness. It is there to provide further reassurance of an individual's suitability for a post. It cannot replace our responsibility to assess someone's suitability. The bill provides parents and others with reassurance, but it does not replace good judgment. I commend the bill to Parliament.

15:25

David McLetchie (Edinburgh Pentlands)
(Con): As Kenneth Macintosh has just reminded us, the bill has its genesis in the recommendations of Sir Michael Bichard's report on the murder of Holly Wells and Jessica Chapman by their school caretaker, Ian Huntly. The photograph of Holly and Jessica, smiling into the camera and wearing their Manchester United football tops, is an enduring image that should haunt us all. In a sense, their smiles are a reproach to us, because the system failed to protect them.

Nearer to home, we can reflect on the murder 11 years ago of 15 little children and their teacher, Mrs Mayor, at Dunblane primary school. The anniversary of that event falls next week. We recall not only that their murderer, Thomas Hamilton, was possessed of an array of legally held weapons, but that he was a man who worked with children and young people in a voluntary capacity over a long period. His conduct in that capacity had been a concern to a number of parents and others who came into contact with him, although no one could have predicted the murderous outcome.

As a result of such tragic events, we commission inquiries that produce recommendations and we enact laws, because we feel our failures acutely. We want to protect our children and other vulnerable people and, because we cannot legislate evil in our society out of existence, we have recourse to laws, regulations and government agencies to try to achieve that objective. For that reason, we pass laws on gun control, security in schools and, today, disclosure and vetting procedures for those who work with children and other vulnerable people.

Although we are driven by a determination to try to make amends and to close perceived gaps in our laws, a strong and welcome sense of realism has run through consideration of the bill. There is recognition that we cannot protect our children from all the evils and risks in this world, and that

they cannot be wrapped in cotton wool if they are to grow into independent, mature adults who are capable of making sound judgments for themselves.

I support the bill but, like many other members, I do so with a concern for the proportionality of our response and its implications for civil liberties and with a desire that the hundreds of thousands of dedicated, committed people in Scotland who work with children and vulnerable adults in a professional or voluntary capacity be judged fairly and not damned by false accusation or malicious innuendo.

At the end of the day, we have no option but to pass the bill, but we should do so with heavy hearts, reflecting on the need for such a measure and what our society has come to. As I said in the stage 1 debate, Parliament and the Executive should keep the operation of the new legislation under close scrutiny, to determine whether we have got the balance right after all.

15:28

Christine Grahame (South of Scotland) (SNP): I commend David McLetchie for a thoughtful speech. The Scottish National Party supports many of his comments and shares many of his views, especially with regard to Holly Wells and Jessica Chapman, Dunblane and—in my case—Miss X in the Borders. We support what David McLetchie said about the difficulty of ensuring that protection is proportionate and his comments on society generally.

On a lighter note, I tender to the chamber the apologies of Fiona Hyslop, who has been detained. That is the reason why I am here, with my parachute lying outside.

I have found the debate very interesting. Pupils from Earlston high school were here today, and during their visit I found myself strenuously defending the Parliament. We are growing up, and this is a difficult bill on difficult issues. I, too, praise Robert Brown, despite the fact that he is a Liberal Democrat, because he is sincere and a good egg generally. His career is now completely blighted—votes are melting away.

I turn to the issue of those who work with children. I have two sisters who are primary teachers. Ken Macintosh described how the fear that some kind of allegation will be made against them if they even touch or help a child permeates teachers. They cannot even help a child to tie their shoelaces in case something is read into that. Those in the voluntary sector are even worse off—they have to keep looking over their shoulders. Again, it is a matter of balance.

I have only just found out that 300 amendments were lodged to the bill, so, again, I must praise the

Education Committee for its work. The committee seems so consensual and committee members so nice to each other that I think that I belong there. The committee managed to get part 3 deleted, although I should once again commend Robert Brown for listening. As I understand it, it was a victim of the bogeyman of legislation—the law of unintended consequences—so its deletion was no bad thing. That shows the importance of committee scrutiny, but I will come to the issue of post-legislative scrutiny in a moment.

As far as the voluntary sector is concerned, the jury is definitely out, particularly with regard to funding. We all know from our case load that the sector is already in financial difficulty; indeed, I could trot out the usual mantra about its funding not being secured for three years. Donald Gorrie, who is in the chamber, knows perfectly well the background to all this. Those concerns will grow when money starts to be siphoned off to fund the Olympics. The fact is that the smaller voluntary organisations will suffer. After all, the big boys and girls in the sector can generally take care of themselves.

Concerns have also been expressed about the commencement date of 2009. As I understand it, that is because of the additional work that will be needed for the subordinate legislation, regulations and all that stuff. We are eight years on in this Parliament, so we should all realise that subordinate legislation is the meat and gravy of the matter. It is certainly a huge issue, because we must be able to examine the actual gubbins, as it were, of the legislation.

We must always look at legislation as a helpful tool. However, as David McLetchie and others have pointed out, no legislation can guarantee 100 per cent that all volunteers and teachers will do right and that nothing bad will happen to a child or vulnerable adult. It is important to make it clear that, regrettably, some dark and evil people will always find a way of circumventing legislation. As a result, all of us in this chamber should put down a marker for the next session, whichever party is in power. As Lord James Douglas-Hamilton said with his usual charm, which we will all miss, we must return to and examine carefully the operation of this legislation.

I finish with my mantra: if we legislate in haste, we will be sued at leisure.

15:32

The Deputy Minister for Education and Young People (Robert Brown): This could have been nothing more than a tail-end debate. However, some of the speeches this afternoon, particularly those made by Ken Macintosh, David McLetchie and Iain Smith, have been among the best that I have heard in this Parliament.

We must keep in front of us Iain Smith's central point: the Protection of Vulnerable Groups (Scotland) Bill is about the welfare and best interests of children. It is complex and challenging legislation, and it is a tribute to the quality of Executive officials and the strength and vitality of the Scottish Parliament's committee system that the bill has come through its passage reflecting—and strengthened by—their input and by the input of interests in wider society.

Systems are one thing, but they are given life and dynamism by people. In that respect, we are fortunate to have an Education Committee of considerable quality, distinction and independent thought, and, given that this is its final bill in this session, it is perhaps appropriate to thank the members for their courtesy and consideration, not just with regard to this bill but across the board. I also commend Ken Macintosh for being spot on in his philosophical approach to the issues that the bill deals with.

The bill has been controversial. However, the consensus shown in today's debate allows it to proceed with the good wishes of all political parties and with a united commitment to make its provisions work and to ensure that young people and vulnerable adults are protected from exposure to unsuitable people in the workforce.

As many members have pointed out, attention now switches to implementation of the bill's provisions. Hugh Henry made it clear in his opening speech that the Executive will continue to consult widely on all aspects of implementation, not least retrospection and fees. We want people—although not, of course, the unsuitable people at whom the bill is aimed—to be comfortable with the arrangements. Dialogue has already begun with local authorities, the police, the voluntary sector, regulatory bodies, representative bodies and the national health service, and that will continue to be essential to inform the detail of secondary legislation.

As well as getting the detail of the legislation absolutely right, successful implementation will depend on the availability of clear and helpful guidance, training, and advice facilities through the central registered body in Scotland and others. We will consider with our stakeholders how best to put those measures in place.

As a number of members have said, we should not forget the roots of the bill: it follows the tragic murder of two young girls in Soham, who died at the hands of an individual who had substantial access to children through his work. The subsequent inquiry exposed critical deficiencies in how we vet people who have access to vulnerable groups through work and volunteering.

The bill delivers on Sir Michael Richard's principal recommendation that there should be a

system to register people who work with children and vulnerable adults. As well as providing for a robust vetting and barring system, it will make it an offence for those who are identified as unsuitable to work with vulnerable groups, and it will deliver the means to remove an individual if he or she becomes unsuitable. That means that, when we drop children off at school or when a family member goes into hospital or a care home, we should be able to be confident that the people who are charged with their well-being do not have a history of violent, abusive or cruel behaviour towards people in those circumstances. For those of us who work or volunteer, it means that we will no longer need to fill out a complicated form every time we change jobs or decide to help out at our local youth group or community centre. It also means that voluntary sector or statutory employers will be notified if any new information comes to light that makes someone unsuitable.

As Hugh Henry said earlier, the bill enhances the range of tools that employers use to help them to make safe and informed recruitment decisions—referring back to the Dunblane tragedy, David McLetchie reminded us how central recruitment decisions are to the operation of organisations at all levels.

The bill affects statutory and voluntary organisations, but I will finish by turning specifically to the voluntary sector, about which most concerns have been expressed. We value enormously the contribution made by the voluntary sector and by volunteers in a wide range of areas, not least those concerned with children or vulnerable adults. We want them to play an ever-increasing role. We want to have youth organisations and playgroups, parent-teacher associations and meals on wheels. We want our young people to have opportunities, excitement and fun and—yes—to take part in adventurous pursuits. We have to consider the risk culture. I made some observations on that during the passage of the bill.

The bill supports all of that by making it possible to exclude nasty and unsuitable people from the workforce. Protecting Scotland's most vulnerable people is a key responsibility of the Parliament, and I believe that the bill makes a significant and proportionate contribution to that. As well as streamlining and improving the disclosure process, it will afford greater protection to those who need it most.

We obviously accept that there is a lot of work yet to be done—Iain Smith made the telling comment that, in his view as convener of the Education Committee, the bill is fit for purpose as we do that work. I have often said that the biggest thing that I have learned since becoming an MSP and minister is that passing good laws is one

thing, but making them work on the ground, considering the detail of the real situation, is 99 per cent of the challenge that faces us.

Against that background, in memory of instances when things have gone wrong in the past—as David McLetchie talked about—and recognising the wider context of the bill, I urge the united support of the chamber for the Protection of Vulnerable Groups (Scotland) Bill.

Serious Crime Bill

The Deputy Presiding Officer (Trish Godman): The next item of business is a debate on motion S2M-5671, in the name of Cathy Jamieson, on a legislative consent motion on the Serious Crime Bill, which is United Kingdom legislation.

15:39

The Deputy Minister for Justice (Johann Lamont): The Serious Crime Bill will make it an offence in Scotland to breach a serious crime prevention order issued in England, Wales or Northern Ireland. It will extend the use of production orders to cash seizures, and put it beyond doubt that reasonable force may be used when executing a search warrant under the Proceeds of Crime Act 2002.

It is a sensible package of measures that will ensure that Scotland does not become a bolthole for those trying to circumvent the provisions of their SCPO. The bill also strengthens the provisions of the 2002 act.

The Justice 2 Committee supports the Executive's approach, and I trust that the Parliament will too.

I move,

That the Parliament endorses the principle that the offence of breaching a Serious Crime Prevention Order should be extended to Scotland and that amendments to the Proceeds of Crime Act 2002 relating to the use of force in executing search warrants in Scotland under section 387 of that Act and the extension of production orders and search warrants to include cash seizures as set out in the Serious Crime Bill, introduced in the House of Lords on 16 February 2007, should be considered by the UK Parliament.

15:40

Phil Gallie (South of Scotland) (Con): Although the Conservative party has expressed scepticism about serious crime prevention orders, we welcome the overall direction of the bill. Irrespective of different parties' standing on SCPOs, the bill will become law. Once it becomes law, it would be stupid to have false borders to protect those who deserve no protection within the boundaries of the United Kingdom.

The bill is well intentioned. My colleagues at Westminster will give it the go-ahead and my colleagues in the Scottish Parliament will support the minister in her ambitions.

15:40

Patrick Harvie (Glasgow) (Green): As the minister explained, the Serious Crime Bill seeks to

introduce a new variant of the civil preventive order that will allow any restriction imaginable to be placed on an individual who has not been convicted of any crime.

The UK Government has made increasing use of such preventive orders. Antisocial behaviour orders were largely a response to small-scale antisocial behaviour with restrictions explained in court to the individual concerned, not simply imposed by law enforcement officers. Then we had control orders, which made possible house arrests without trial because ministers argued that the threat from terrorist acts of mass murder was a unique threat that demanded a unique response.

The Serious Crime Bill now applies the same principle to literally any crime that a court considers serious enough. SCPOs are broad ranging, they require no conviction, no trial and carry the possibility of up to five years in prison if they are breached. If we agree the legislative consent motion before us today, we accept the legitimacy of that particular use of a civil preventive order in the Scottish justice system. We might do that, but it is a debate for another time that will demand significantly more than a few minutes' discussion in the chamber.

If we have such a debate in the next session, we will need to consider with great care the implications of a sentence of up to five years in prison being imposed on someone who has never been convicted, never been tried and never even been charged with involvement in serious crime. The business of holding a fair trial, presenting evidence and hearing a defence might be tiresome, but it is not optional. The UK Government's consultation stated that SCPOs were intended for use against individuals

"for whom a separate trial is not thought worthwhile."

I find that statement shocking. We have a right and a duty to prevent crime and prosecute the guilty, but we cannot abandon the importance of fair and formal criminal trials. We should reject the legislative consent motion at least until there is time to debate its implications fully.

15:42

Johann Lamont: I note the support of the Conservatives and I am rather concerned by the overcooked and overstated position taken by the Greens. I am sure that members of that party have studied in great detail the *Official Report* on the subject. The legislative consent motion was discussed in great detail at the Justice 2 Committee and the conclusion was that the committee was content to support it.

The committee recognised that, should the bill be passed and a serious crime prevention order

attached to someone in England and Wales was breached in Scotland, it would be entirely reasonable for the Scottish courts to address the matter. The motion does not deal with the broader issue of whether we should be able to apply SCPOs in Scottish courts. I suspect that views will be divided on the subject when it is considered. The Executive judged that it should deal now with the small issue of orders that are issued in England and Wales and prevent Scotland from becoming a bolthole. The broader issue will be addressed by the next Administration.

Members should note that it is possible for SCPOs to be applied post-conviction, which seems entirely reasonable to me, or indeed by a High Court, rather than by somebody taking an order out of their hip pocket and saying, "I think this might be a good idea." The orders would be tested in court. The breach of such an order will be a criminal offence, but the person to whom it is applied will have been advised of the consequences of a breach. If they believe that the order ought not to have been applied, they can apply to the court for it to be put aside.

The question whether the SCPO is valid is a matter for the court and the question of its breach, the terms of which the person will understand absolutely, is also a matter for the court. We took the view that it was important that we deal in this small way with the fact that the bill is going ahead in England and Wales. As was made very clear in the Justice 2 Committee, that does not prevent the scrutiny of the matter and I have no doubt that it will be scrutinised in detail by a future Parliament that will look at the issues in Scotland. However, as serious crime becomes more imaginative, creative and difficult to address, we must give our judicial system the levers and powers to allow us to address it, although at the same time maintaining the important rights of the accused.

On those grounds, I urge members to follow the Justice 2 Committee and the Subordinate Legislation Committee and support the legislative consent motion.

Complaint

The Deputy Presiding Officer (Trish Godman): The next item of business is a debate on motion S2M-5678, in the name of Brian Adam, on behalf of the Standards and Public Appointments Committee, on a breach of the code of conduct for members of the Scottish Parliament.

15:45

Brian Adam (Aberdeen North) (SNP): The details of the complaint that was made against Mr Monteith are set out in the report that the Standards and Public Appointments Committee published on 1 March. That report includes the details of the investigation that the Scottish parliamentary standards commissioner carried out. In summary, the complaint was that, when Mr Monteith was a member of the Glasgow Airport Rail Link Bill Committee, he disclosed confidential information to the media ahead of the agreed publication time of a preliminary stage report by that committee.

The Parliament has made it clear previously that, when a committee deems information to be confidential, it should remain confidential until the agreed release date. In Mr Monteith's case, in which the information related to a private bill, there were particular reasons why the information should not have been transmitted outwith the Parliament. Private bill procedures differ from those for public bills and it is important that members understand and respect those differences. Private bills are different in that they involve measures that a promoter seeks in its private interests and to which others may object, also in a private capacity.

The Parliament's role remains to legislate but, because of the nature of the issues that are at stake, it is also to arbitrate between competing private interests. That calls for procedures that are both parliamentary and quasi-judicial in character. At the consideration stage, a private bill committee sits quasi-judicially and makes decisions on people's rights, as set out in their objections. The committee report then details the committee's decision on those matters. It is not appropriate to let anybody know the outcome in advance of the objectors having access to that information. The approach is identical to that of the courts when they issue judgments on actions that are before them—all parties can access the same information at the same time. Early knowledge of decisions could affect negotiations between parties, which are generally on-going right up to the publication time.

The Glasgow Airport Rail Link Bill Committee discussed and decided on the timing of its report's

publication. It was not in the gift of an individual member of that committee to decide to pre-empt that agreement. The Standards and Public Appointments Committee noted Mr Monteith's position, as set out to the commissioner and repeated in a separate submission to the committee. However, the situation in which confidential information was placed in the public domain arose because Mr Monteith chose to put out his own separate media release. The committee noted that there appear to have been two versions of the private bill committee's release. One was sent to members of the private bill committee and the Parliament's media relations office in advance of publication for information purposes and was not to be referred to until publication—hence the embargo. One was issued at the same time as the report was published and carried no embargo.

As the process for private bills is distinct, members of the private bill committee were given a briefing on the procedures for publication, which included an instruction that nothing, embargoed or otherwise, should be given to the media prior to the publication time. I will quote briefly from page 20 of the Standards and Public Appointments Committee report. The commissioner stated that Mr Monteith

"accepted with hindsight that he had paid insufficient attention to procedures for private bills".

In addition, Mr Monteith could have taken steps that might have prevented the situation from occurring. He could have informed the clerks to the committee or, as a courtesy, the committee convener that he intended to issue his own information. The procedures could have been reiterated to him and perhaps prevented the matter reaching this unfortunate stage.

In arriving at its decision to agree with the findings and conclusions of the commissioner and to recommend to Parliament a sanction, the Standards and Public Appointments Committee agreed that the sanction should be proportionate and reasonable. The committee did not wish to stop the member carrying out his work in his constituency.

We are acting to send a signal that members should be cautious in their actions and consider possible consequences. Therefore, the committee recommends to Parliament that Mr Monteith be excluded from all meetings of the Parliament and its committees for the first five sitting days immediately after the motion is agreed to.

I move,

That the Parliament notes the 1st Report, 2007 (Session 2) of the Standards and Public Appointments Committee, *Complaint against Brian Monteith MSP* (SP Paper 758), and agrees to impose the sanction recommended in the report that Brian Monteith MSP be excluded from all

meetings of the Parliament and all meetings of its committees for the first five sitting days immediately after this motion is agreed.

The Deputy Presiding Officer: I call Brian Monteith. Mr Monteith, you have three minutes.

15:50

Mr Brian Monteith (Mid Scotland and Fife) (Ind): Three minutes? Thank you, Presiding Officer.

I oppose the Standards and Public Appointments Committee motion for three reasons. First, I was denied natural justice in this process. Secondly, I did not disregard the Glasgow Airport Rail Link Bill Committee, as the standards commissioner and the Standards and Public Appointments Committee allege. Thirdly, the penalty that will be imposed, should members believe the charges, is disproportionate for such a breach.

In not being allowed to appear before the Standards and Public Appointments Committee to answer the complaint against me, I believe that I was denied the natural justice that this Parliament rightly insists that members of the public should expect. I could not answer in person any allegations or questions or correct any misunderstandings. Would members who are either members of trade unions or sponsored by trade unions accept it if people whom they represent were accused of a breach of their employment terms by their employer but had no opportunity to address any committee dealing with the incident? Is it not right to expect that person to be able to present their own defence or to have someone represent them?

Instead, the process was conducted in writing. When I submitted my written response, I fully expected to be called to a subsequent committee meeting. In respect of natural justice, the system and the decision are flawed and the motion should be rejected.

Secondly, I do not believe that I disregarded the Glasgow Airport Rail Link Bill Committee. It is clear from the convener of the Standards and Public Appointments Committee's speech, that people still completely misunderstand the term "embargo." I have said constantly in my defence that I believe that there was a misunderstanding or confusion in the Glasgow Airport Rail Link Bill Committee. I certainly do not recall the clerk saying that nothing should be circulated, whether with an embargo or not. In fact, the paper on the release of the report that was circulated to members—I have it here—suggested that the release, which was to be issued the next day, would be embargoed until 8 o'clock. An embargo

means that a paper is in circulation, but cannot be used.

It was my belief that in issuing my separate release—which was subject to the same embargo—to explain why I had dissented from the committee's decision, I was doing nothing more than ensuring that the information would be in the public domain to allow people to understand why I had dissented. I would not be so daft as to break the publication of the committee's report, or to misinform the public or the media, by putting out a news release in my name. That just does not make sense.

If I—or the clerk or the Glasgow Airport Rail Link Bill Committee—had fully understood the terms of the embargo, there would have been no confusion. Given that no evidence from the private meeting is minuted, the corroborating evidence from the convener of the Glasgow Airport Rail Link Bill Committee is thrown into doubt, because she had to seek clarification at a later date from the same clerk. She was not sure what the clerk had meant by the embargo.

Margaret Jamieson (Kilmarnock and Loudoun) (Lab): Will the member take an intervention?

Mr Monteith: No, I will not.

The Deputy Presiding Officer: The member should be finishing.

Mr Monteith: I have worked in the media for 16 years. I understand what an embargo means. To give a member a statement that has an embargo on it means that the statement is in the public domain—the press have the information, but it should not be used.

My third reason for opposing the motion is that the penalty for the alleged breach is disproportionate and should be rejected. If members read the *Official Report* they will see that the Standards and Public Appointments Committee members recognised that the offence was different to a previous breach, but decided that the penalty should be the same.

For those three reasons, I ask members to reject the motion.

15:54

Mark Ballard (Lothians) (Green): I respect the fact that the Scottish parliamentary standards commissioner ruled against Brian Monteith, but I am genuinely concerned about how minority reports and minority opinions are treated by committees. There is a lack of clarity about the rules in such situations.

I understand from reading the standards commissioner's judgment that Brian Monteith

might have fallen foul of the rules, but in a situation where there is such a lack of clarity about what the rules mean; in a situation where there were, as we heard from Brian Adam, two press releases with different uses of the word “embargo”; and in a situation where we routinely issue press releases on a no-approach basis, which do not always give minority opinions the same exposure as the views of the majority, we have a genuine concern that the matter needs to be addressed by the Procedures Committee. We need clear rules so that nobody can claim that a lack of clarity has led to a situation like the one that we are in today.

For that reason, the Greens will abstain from the vote on the motion.

15:56

Margo MacDonald (Lothians) (Ind): Although I do not wish to comment on many of the issues that Brian Monteith covered, I do not wish to be part of what can look like a kangaroo court. He was accused of offending against the Parliament's rules, but he was not given an opportunity to answer. He should have been given that opportunity. If he had, we would not see the puzzled faces that we now see around the chamber. People are unsure about what they are being asked to vote on.

We need the clarity that Mark Ballard mentioned, because there is great confusion throughout the Parliament about how embargos are used.

Brian Monteith was not given the chance to face his detractors and accusers. I thought that the chance to do that was a basic element of what we call justice.

15:57

Donald Gorrie (Central Scotland) (LD): The Standards and Public Appointments Committee contacted Brian Monteith and said that it wished to take further representations from him so that he could clarify any points that he wished to make. He had already dealt with the matter fully with the Scottish parliamentary standards commissioner. Mr Monteith wrote to the committee at considerable length and set out interesting arguments about embargos. He did not indicate that he was desperate to come and speak to us. We understood that the letter was his defence.

The committee decided to support the standards commissioner's judgment. Although there are arguments about what is and is not an embargo, it is clear that the clerk to the Glasgow Airport Rail Link Bill Committee—or an equivalent person—made it clear to members of that committee that they should not say anything until the committee's

report was in the public domain. Brian Monteith did say something, so it seems clear that there was a breach.

Although the previous incident involving Mike Pringle was different in many ways, it was of the same order of seriousness as the current case, so it is reasonable to impose the same penalty. We should try to have standards that people understand and go along with, so the Standards and Public Appointments Committee imposed the same penalty as was imposed on Mike Pringle.

The committee believes that Brian Monteith has had natural justice. We considered his arguments carefully, but we do not agree with them and we believe that the penalty is commensurate with the seriousness of the event.

15:59

Brian Adam: Brian Monteith's suggestion that he has not had natural justice does a great disservice to the Scottish parliamentary standards commissioner and the Standards and Public Appointments Committee. The incident, which occurred in June last year, has been thoroughly investigated. Mr Monteith took up the opportunity, which was offered by the committee, to make a written submission. There was nothing new in it, so we decided that we did not need to hear any further argument. He did not offer any new argument today.

His second point was that, somehow, nobody else understands the meaning of the word “embargo” and that, because he has been a professional in the field, he is the authority on the matter. That is a weak defence. Donald Gorrie dealt with Mr Monteith's third point effectively.

Members will be aware that there have been complaints in previous years about the leaking of documents from committees. Regardless of what information was ultimately transmitted to the media, Mr Monteith admits that he gave information to a journalist. He has argued about the term “embargo”. If he wants definitive guidance to be issued, the Standards and Public Appointments Committee has agreed to draw the Conveners Group's attention to its report on the complaint and to the Scottish parliamentary standards commissioner's comments. It will be for the Conveners Group to decide whether action is required.

The fact remains that Mr Monteith was a member of the Glasgow Airport Rail Link Bill Committee and was briefed on and agreed to the special procedures relating to private bills. In breaching the procedures he breached the members' code of conduct and we recommend a sanction that is proportionate and reasonable.

Alex Neil (Central Scotland) (SNP): On a point of order, Presiding Officer.

I will not comment on the pros and cons of the case, but I am concerned that Mr Monteith had only three minutes in which to speak, particularly as—quite rightly—the convener of the Standards and Public Appointments Committee opened and closed the debate and another member of the committee spoke for two minutes. In the interests of natural justice, a member in such a position should be given more than three minutes to explain their position to the Parliament.

The Deputy Presiding Officer (Murray Tosh): That is a statable opinion, but the matter is not covered by the standing orders. In essence, the timings are directed by the business motion. If Mr Neil thinks that the procedures are inadequate, the proper way for him to address the matter would be to approach the Procedures Committee.

Margo MacDonald: On a point of order, Presiding Officer. Further to Mr Neil's point of order, although standing orders do not cover every jot and tittle of what has gone on in the past 10 minutes, they provide for fairness and equality of treatment, which Mr Monteith has not received. I sincerely hope members will ensure that in future a member in such a position receives equality of treatment.

The Deputy Presiding Officer: That might be a statable opinion, but it is not a point of order. If members want rules on such matters, they must consider how such rules could be introduced. Currently there are no such rules.

Decision Time

16:02

The Deputy Presiding Officer (Murray Tosh): There are three questions to be put as a result of today's business. The first question is, that motion S2M-5631, in the name of Hugh Henry, that the Parliament agrees that the Protection of Vulnerable Groups (Scotland) Bill be passed, be agreed to. Are we agreed?

Motion agreed to.

That the Parliament agrees that the Protection of Vulnerable Groups (Scotland) Bill be passed.

The Deputy Presiding Officer: The second question is, that motion S2M-5671, in the name of Cathy Jamieson, on a legislative consent motion on the Serious Crime Bill, which is United Kingdom legislation, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 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)
 Grahame, Christine (South of Scotland) (SNP)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (Moray) (SNP)
 Lyon, George (Argyll and Bute) (LD)

Macdonald, Lewis (Aberdeen Central) (Lab)
 MacDonald, Margo (Lothians) (Ind)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Campbell (West of Scotland) (Ind)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 May, Christine (Central Fife) (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)
 Monteith, Mr Brian (Mid Scotland and Fife) (Ind)
 Morgan, Alasdair (South of Scotland) (SNP)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Petrie, Dave (Highlands and Islands) (Con)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Wallace, Mr Jim (Orkney) (LD)
 Watt, Ms Maureen (North East Scotland) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Canavan, Dennis (Falkirk West) (Ind)
 Fox, Colin (Lothians) (SSP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)

ABSTENTIONS

Sheridan, Tommy (Glasgow) (Sol)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)

The Deputy Presiding Officer: The result of the division is: For 88, Against 9, Abstentions 2.

Motion agreed to.

That the Parliament endorses the principle that the offence of breaching a Serious Crime Prevention Order should be extended to Scotland and that amendments to the Proceeds of Crime Act 2002 relating to the use of force

in executing search warrants in Scotland under section 387 of that Act and the extension of production orders and search warrants to include cash seizures as set out in the Serious Crime Bill, introduced in the House of Lords on 16 February 2007, should be considered by the UK Parliament.

The Deputy Presiding Officer: The third question is, that motion S2M-5678, in the name of Brian Adam, on behalf of the Standards and Public Appointments Committee, on a breach of the code of conduct for members of the Scottish Parliament, be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marilyn (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)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (Moray) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 May, Christine (Central Fife) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McGrigor, Mr Jamie (Highlands and Islands) (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)

Morgan, Alasdair (South of Scotland) (SNP)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Petrie, Dave (Highlands and Islands) (Con)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Watt, Ms Maureen (North East Scotland) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)

AGAINST

MacDonald, Margo (Lothians) (Ind)
 Martin, Campbell (West of Scotland) (Ind)
 Monteith, Mr Brian (Mid Scotland and Fife) (Ind)
 Sheridan, Tommy (Glasgow) (Sol)

ABSTENTIONS

Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Fox, Colin (Lothians) (SSP)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Neil, Alex (Central Scotland) (SNP)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 White, Ms Sandra (Glasgow) (SNP)
 Wilson, Allan (Cunninghame North) (Lab)

The Deputy Presiding Officer: The result of the division is: For 69, Against 4, Abstentions 20.

Motion agreed to.

That the Parliament notes the 1st Report, 2007 (Session 2) of the Standards and Public Appointments Committee, *Complaint against Brian Monteith MSP* (SP Paper 758), and agrees to impose the sanction recommended in the report that Brian Monteith MSP be excluded from all meetings of the Parliament and all meetings of its committees for the first five sitting days immediately after this motion is agreed.

Fairtrade

The Deputy Presiding Officer (Murray Tosh):

The final item of business is a members' business debate on motion S2M-5653, in the name of Christine May, on Fairtrade. The debate will be concluded without any question being put.

Motion debated,

That the Parliament recognises the focus which Fairtrade Fortnight gives to the local, national and global effects of fair trade; notes that this year's event is taking place from 26 February to 11 March 2007; welcomes the growing support in Scotland for fair trade, with 27 areas of Scotland having achieved Fairtrade status, including all of Scotland's cities; notes that all local authority areas have groups working to achieve Fairtrade status; further notes that 40% of people in Scotland regularly buy Fairtrade products and 75% buy a Fairtrade product every year; congratulates the Co-operative Group on providing the first Fairtrade cotton shopping bag; believes that Scotland should continue to campaign to achieve Fairtrade country status, and further believes that such campaigning not only empowers people in the developing world but also empowers the people of Scotland.

16:06

Christine May (Central Fife) (Lab): I thank all members who signed the motion—and there were many of them—and all members who are here in the chamber. There would have been more had the transport arrangements for this evening not been slightly difficult for many people. I also thank all those in the gallery, who include representatives from the Co-operative movement and Oxfam. Oxfam was one of the founding members of the Fairtrade Foundation in 1992; its representatives are welcome, along with their guests from Uganda and Zambia.

Ten years ago, we would have struggled to find more than the odd packet of Fairtrade coffee on supermarket shelves. Now, thanks to the commitments made by the Co-operative Group some nine years ago, we can fill our trolleys with Fairtrade tea, coffee, bananas, rice and sugar. I should advise the chamber of my entry in the register of members' interests: I am a member of the Co-operative Party and the Co-operative Society.

These days, we could buy all those goods while wearing a Fairtrade T-shirt, and then carry it all home in a Fairtrade cotton shopping bag. Thanks to the establishment of the Fairtrade mark and Fairtrade produce, farmers and growers in some of the world's most disadvantaged countries can now command premium prices for their goods and services. Our supermarkets and their customers cannot seem to get enough of it. The money that the trade is generating is allowing farmers to invest in their communities—for example, in

schools and educational equipment, in farm roads and in community facilities.

The trade goes way beyond tea bags in the local Tesco. The idea of guaranteeing poor farmers in developing countries a price and of giving them a social bonus on top grew out of the Fairtrade Foundation movement in 1992 and from the Co-op decision in 1994. The trade has now grown into a £290 million business with products ranging from footballs to tea and from cotton to honey. Although the market is not as big as the organic food market, year on year it is growing faster.

Members should remember that only nine years ago only the Co-op and Oxfam and some other small outlets were prepared to stock Fairtrade products. Now the big supermarkets are openly competing with one another to be seen to have a social conscience. That has reaped dividends for fairer trade. Sales rose by 46 per cent in 2006 to £290 million, and they should easily top £300 million in 2007. The Co-op has launched one million unbleached cotton shopping bags, which are intended to take the place of plastic bags. I hope to see many of my colleagues carrying them instead of briefcases.

All that is good not only for producers, but for the environment and for our standard of living as a whole. We throw away less. There are environmental issues associated with fair trade and we must not overlook them. We must consider food miles and the ethical and environmental considerations that go along with fair trade.

Food makes the largest single contribution to our ecological footprint. Much of that food travels long distances before it reaches our plates. It is interesting that, alongside the growth in the amount of Fairtrade food being bought, we have seen a parallel increase in the amount of locally produced and organic food being bought and consumed. We heard that last week in the chamber when we debated the organic food strategy. The promotion of the one has not had a detrimental effect on the other.

Of course, purchasing is all about choice. The consumer is free to make that choice and the Government has a role to provide good information and encouragement. I shall turn later to what the Government might do to give further encouragement. First, though, I want to say something about a common standard for ethical trade, and goods that might be described as fair trade or, as I understand it, that might be about to be described as “fair trade style”, which I find very interesting. The role of the Co-op must not be overlooked. I congratulate the Co-op on selling fair trade products when no one else would touch them.

From around 150 Fairtrade products in 2003, there are now more than 2,500: yogurt; baby food; flowers; and the tea, coffee, bananas and footballs I mentioned earlier. Marks and Spencer has launched a range of Fairtrade cotton products, from rugs and bedding to childrenswear and men's shirts. During the first Fairtrade fortnight, the store took out a large number of huge full-page advertisements in quality newspapers such as *The Guardian* to advertise not just Fairtrade food and clothing but Fairtrade investment and insurance products. Yesterday, in the financial pages of the newspapers, an eight-page pullout carried lengthy articles analysing the financial success and growth potential of fair trade. The question is, has the commercial success of the movement had an impact on the wider development goals that it was designed to achieve? Other than in the retail sector, we have not yet seen an analysis of that. Perhaps the minister will comment on work that is being done to do that analysis. Fairtrade has also shown that the public are ready to engage with much wider global development issues. I congratulate Executive ministers and representatives of all parties on the work that they have done in international development.

We must take on board customer demands. There is a role for Government in Scotland and the United Kingdom. I turn to the vexed issue of public procurement and what we can do to ensure that public bodies procure as much as possible of goods that are produced locally and ethically, and of Fairtrade goods. I am aware that the Executive has issued guidance, but I am not sure of the extent to which that guidance is having an impact on what is being procured. Perhaps the minister will comment on that in her remarks.

We have targets to ensure that every local authority is working towards fair trade status, and we have seen examples of their work in which colleagues are involved. My colleagues will speak about that; I will not go through the long list because I do not want to steal their thunder—or, indeed, to pre-empt their press releases. We have a long-term goal, which is to ensure that 75 per cent of the population buy a Fairtrade product every year.

I would like our local authorities, our health service and our other public sector procurers to be given sufficient backing to take the risk and back fair trade. Often, the reason that is given for their not doing so is that they do not wish to take the risk. We in the Parliament and ministers in the Executive can send out a strong message to say, “We encourage you to take that risk.” By doing that, we play our part in redressing the mass inequality that exists in the global market. When members and ministers in the Westminster Parliament go to world trade talks, it gives them

impetus and the encouragement that they have mass support.

Scotland is playing an active role in making trade rules fairer for all, in reducing its ecological footprint and in ensuring that it supports not just its communities but the wider international community. I commend the motion to the chamber and look forward to the rest of the debate.

16:14

Linda Fabiani (Central Scotland) (SNP): I thank Christine May for giving us the opportunity to have the debate. I do not think that the Parliament has missed a year of marking Fairtrade fortnight. In addition, there has never been a fair trade debate in the Parliament in which I have not mentioned Strathaven and Avondale. I am pleased to say that, tomorrow—yet again—14 schoolchildren from Avondale, who won the Fairtrade poster competition this year, will be coming to Edinburgh to see their national Parliament. They will be really pleased that we have held this debate.

I have noticed that it has started to become quite fashionable of late to criticise the Fairtrade movement. People have asked what difference a couple of extra cents makes, or a couple of extra soles for coffee in Peru, for instance, to refer to a recent criticism. That is fine—I can see why people want to be cynical these days. As far as I am concerned, however, if we are getting the idea of fair trade into the national psyche and if we are starting with schoolchildren such as those from Avondale who are coming through tomorrow, that is very important.

We must make fair trade thinking the norm and then take the wider issues into account, too. We all recognise that the issues around fair trade cannot be considered in isolation. There are trade justice and debt adjustment issues. There are also the World Trade Organisation rules—which I am always railing against—which actively work against real fair trade. That applies to copyright and intellectual property rules in particular.

I was horrified to learn the other day about a case involving a company in the United Kingdom. The Kikoy Company UK Ltd is trying to trademark an anglicised version of the word “kikoi”, which would prevent kikoi producers in Kenya from selling their national dress in Europe. That is a piece of absolute nonsense. Members might remember a similar fuss over basmati rice a few years ago, when an American company tried to trademark the word “basmati” so that Indian producers could not use it or sell their product. That, too, was ridiculous.

Fair trade issues go much wider than small consumer goods. We are now talking about fair

trade nationhood, which is wonderful. I was fortunate enough to question the minister about the matter last week at question time. I believe that, if we aspire towards fair trade nationhood, we must take it really seriously. It is about much more than tea, coffee and other consumables. The key, as Christine May suggested, is procurement by public bodies, with consideration being given to fair trade procurement where that is at all feasible, whether the fairness in trade relates to producers at home or producers overseas.

The minister said last week, in response to my question, that European rules preclude a lot of measures, but in fact it is not that simple. I looked at the Executive’s procurement guidance, which, alas, relates only to catering. It details the Executive’s view that fair trade requirements cannot be specified in tender documentation and says that Scottish Executive policy may only encourage. My first thought on reading that guidance was that we should have a go and challenge the situation. Then I came across the inquiry by the Westminster International Development Committee into fair trade and development. The committee was clear in asking whether existing Government guidelines work against fair trade, and it concluded that they do. After much study, the committee concluded that the UK—ergo Scotland—has got it very wrong. The Government does not do nearly enough to promote fair trade and, rather than enabling fair trade procurement, it constrains it.

Evidence that was submitted to the committee states:

“EU legislation is not concerned with what is being procured”—

the stuff that goes out from Government in this country says that it is—

“but rather how it is being procured.”

In fact, it is possible to make explicit reference to fair trade in contract documentation. The Scottish Catholic International Aid Fund and Oxfam in Scotland have sent us information on the matter. SCIAF notes:

“the contracting authority can procure whatever it wants”, with

“the European Commission itself making such fair trade specifications without difficulty.”

Oxfam notes:

“Madrid, in support of their bid for the Olympic Games, included a tender for a supply of fair trade t-shirts”.

Oxfam also mentions moves by Bonn, Barcelona, Utrecht, Zuid-Holland, Lyon and Bilbao. On procurement rules, it says:

“The non-discriminatory thrust of EU rules is aimed against those member states that seek to give unfair

advantage to their own national suppliers over suppliers from other member states within the European single market."

If authorities keep to those rules, it is not actually a matter of what they procure.

The Executive has often been accused of being overcautious in implementing and transposing EU directives. That is an argument for another day—we have had quite a few such arguments lately. The issue is far too important to be arguing over. We ought to work together to get it sorted. I would like to hear a pledge from the minister to study personally and carefully the results of the International Development Committee's inquiry; to ask for advice from organisations such as Oxfam and SCIAF; and to come up with a policy that ensures that, rather than being accused of paying lip service to fair trade when we go for fair trade nationhood, we genuinely become a fair trade nation in a way that people can be proud of and which will inspire others.

16:20

Lord James Douglas-Hamilton (Lothians) (Con): I congratulate Christine May on securing this important debate. I also congratulate everyone who is involved in Fairtrade fortnight.

These are exciting times for the fair trade movement, which has developed from a small movement a few years ago to a major player in Scottish retail. As Christine May's motion—which I, along with many others, have signed—says,

"40% of people in Scotland regularly buy Fairtrade products and 75% buy a Fairtrade product every year".

I have no doubt that those figures will have grown substantially when Fairtrade fortnight comes around again.

One of the matters that interests us greatly is the fact that the fair trade movement is a genuine grassroots movement. It is driven not by the state or by intra-governmental organisations but by ordinary men and women who have a passion to improve the lot of some of the world's poorest people. The moral case that Christine May advanced is well appreciated. The fair trade movement is a grassroots movement in the sense that it is up to individual communities to seek fair trade status, should they so wish. I am heartened to read in the motion that no fewer than 27 parts of Scotland have now achieved fair trade status. The pioneers of the move towards communities attaining fair trade status—Aberfeldy and Strathaven—deserve congratulations for leading the way.

Ultimately, however, the success of the fair trade movement depends on consumer choice, and rightly so. The onus remains on the fair trade movement to ensure that its marketing campaign,

which has been exemplary, continues to attract new converts to the cause. I am sure that it will.

We would do well to remember that fair trade is about more than the Fairtrade logo and the sale of fairly traded products. It is also about ensuring fair and open trading conditions for all producers everywhere. That means taking action to end the grotesque protectionism that exists in the European Union and elsewhere in the west, much to the detriment of producers in the developing world. I am pleased that the aberration that was the common agricultural policy has been substantially reformed since we first debated the fair trade movement in the Scottish Parliament some years ago. However, much remains to be done to level the playing field between the European Union and developing nations to benefit the world's poorest countries. Unless Governments, including our own, take action to address that, the fair trade movement will not become the whole-hearted success that it deserves to be.

Despite the challenges, the fair trade movement has become a beacon of success in Scotland. I wish it every success during the remainder of Fairtrade fortnight.

16:23

Mark Ballard (Lothians) (Green): I congratulate Christine May on securing this debate and thank everyone who is working towards achieving fair trade nationhood for Scotland—particularly the people in the public gallery who represent some of the organisations that are involved in that effort.

Christine May mentioned that Oxfam and the Co-op are two of the pioneers of fair trade in Scotland. Perhaps predictably, I would like to add to that list another set of organisations: Scotland's universities, which have also done good work to promote fair trade.

At lunch time today, I attended Edinburgh University's celebration of the third birthday of its status as Scotland's first fair trade university. I am pleased that one of the requirements of fair trade nationhood is that 60 per cent of our tertiary education institutions should be fair trade institutions.

Back in 1992, I was involved in trying to get Edinburgh University Students Association to start purchasing fair trade coffee. It is stunning to think how far we have come since 1992, when we were trying to convince people that fair trade coffee—ethical coffee—did not mean Nicaraguan campaign coffee, which was always more of a political statement than a taste experience. Fairtrade roast and ground coffee now has 20 per cent of the United Kingdom coffee market. That is

an amazing statistic. To come from being such a niche market—the kind of product that would be in the Oxfam shop or just a few jars in the Co-op—to 20 per cent of the market is stunning.

As a fair trade university, the University of Edinburgh is working hard to go further. Another speaker at the event today was its head of procurement. She said that her ambition is to get the jannies uniforms made out of fair trade cotton. She is pushing fair trade and looking for opportunities for fair trade products in every procurement deal—not only on the catering side, but in everything the university purchases. That attitude is what will lead to us becoming a fair trade nation.

I know that the minister has been making an effort, because I have heard the discussions at the cross-party working group on fair trade that has been set up to examine the procurement rules and how we interpret them. We are in quite a different situation from even five years ago. We have multiple suppliers of fair trade products. There are not only British suppliers but major European suppliers such as Max Havelaar. When there are procurement contracts, every fair trade company in Europe can compete on an equal basis. That seems to get round any potential European objections. Part of the issue is about clarifying the procurement rules and part of it is about changing the attitude of some procurement officers to ensure that they look for every fair trade opportunity available. That is what will lead us towards becoming a fair trade nation.

As Linda Fabiani said, there have been criticisms of the value of fair trade, but it is important because it starts a conversation about trade justice. It starts a conversation along the lines of, “If this product is fairly traded, what about all the other products? What about the global rules and the rules that the WTO imposes on world trade?” It starts a conversation about procurement and about social and environmental criteria that can be used in procurement. I have seen that at the University of Edinburgh, where we have a generation of students who have an awareness of, interest in and genuine concern about global trade and trade justice.

It is worth mentioning that the issues of trade, debt and aid have not gone away since Gleneagles. I was appalled to read in the latest issue of Jubilee Scotland's publication that the vulture fund Donegal International is trying to sue Zambia for \$55 million. Donegal International claims that because Zambia's debt has been written off, Zambia should now repay debts that were run up in the distant past. That is indeed odious debt. That kind of action will undermine everything we try to do on fair trade in Scotland.

We must ensure that we talk about the wider agenda of trade, aid and debt.

It is also important to start thinking about fair trade here in Scotland. When I talk to farmers and hear their concerns about how their milk is sold in supermarkets and the fact that the prices they receive from those supermarkets are sometimes below the cost of production, I am struck by the similarity with the stories told by coffee growers in Zambia, Malawi or Tanzania. The conversation about trade fairness must include trade fairness at home as well as international fair trade. Then we can move beyond the immediate target of Scotland becoming a fair trade trademark nation to becoming a Scotland where all trade is fair. Fairtrade fortnight is justly celebrated in this Parliament as a vital step in that process.

16:30

The Minister for Tourism, Culture and Sport (Patricia Ferguson): I, too, thank Christine May for securing the debate. I also thank members around the chamber for their thoughtful speeches. I welcome all our friends in the public gallery and extend our collective apologies if some of them thought, as many of us did until probably mid-afternoon, that the debate would start at 5.

I welcome in particular two friends from Malawi who have joined us for the debate—Brian Namata from Kasinthula Cane Growers Ltd and Dyborn Chibonga from the National Smallholder Farmers Association of Malawi, which is known as NASFAM. I welcome them both to the Scottish Parliament. They will join us for the reception that was due to follow immediately after the debate and which takes place at 6 o'clock. I doubt that this is the case, but if anyone in the chamber has any lingering doubt about the effect of fair trade, to which Linda Fabiani referred, they need only attend the reception to hear Brian and Dyborn talk about the effect that it has had on their lives and on their communities' lives.

It is probably fair to mention a housekeeping matter in connection with the reception's timing. If any of our friends is at a loss for what to do between the debate's culmination and the reception's beginning, officials who are on hand would be happy to show people round the Parliament if they have not been round before.

I very much welcome this debate on fair trade, which is of course timed to mark Fairtrade fortnight 2007. First, I recognise the incredible energy and enthusiasm of Scots around the country who have worked tirelessly to highlight fair trade in their communities. Fair trade is not just about two weeks of the year; it is about impassioned and sustained activism.

As we have heard from members around the chamber, campaigners everywhere have worked tirelessly to achieve fair trade status. I understand that in this fortnight alone, six organisations and communities in Scotland will receive that status, which might be for a zone, a city, a town, a village, a church, a university or a school. All such places are organising events to mark Fairtrade fortnight. They all deserve our thanks and support, because fair trade is not just about choosing one type of coffee over another. In answer to Christine May's point, I understand that more than 200 products are now in the Fairtrade range.

The reason why we are all involved in the movement is that fair trade saves and improves lives. It is about partnership between us in the north and the producers, who are often in the south. We must all embrace that if Scotland is to have a chance of becoming a fair trade nation.

In the past week and a half, I have had the opportunity to meet many fair trade supporters and stakeholders around the country. On Friday, I attended a summit of local authorities that East Ayrshire Council organised in Kilmarnock. I am delighted that one outcome of that summit is the establishment of a local authority network to share best practice around the country and to consider how local authorities can support one another.

Ms Maureen Watt (North East Scotland) (SNP): Does the minister agree that Aberdeen City Council is far ahead of other local authorities on fair trade and that its best practice could be followed elsewhere?

Patricia Ferguson: A representative of Aberdeen City Council attended the event last weekend and I was pleased and heartened to hear the contribution that it makes. That council has arranged to share its ideas and practices with other local authorities. That mutual coming together and sharing of experience will help.

At the summit, we briefly discussed procurement, which many members have touched on. We have issued guidance to local authorities and others about what can be done under the current procurement regime. However, I have asked our officials to look again at whether scope for improvement exists and whether a further chance exists to push the opportunities that we have while of course operating within the law. The issue is fairly complex, but we are looking at it in detail. I hope that we will be able to provide something that is more robust than the existing guidance and which goes further, too. That is the intention.

Linda Fabiani: People always say that we should not ask a question unless we know the answer, but I really do not know the answer to this. What could the Executive do to encourage the

likes of health boards to procure, for example, Fairtrade cotton for bedding? Could something further be done than just general encouragement?

Patricia Ferguson: We are currently considering the issue of exactly how far we can go and how we can frame that guidance. That is work in progress. Through the Fairtrade group and others, I will keep Parliament informed.

During my visit to Kilmarnock, I heard about the work of Loudoun and Stewarton academies. Pupils from Loudoun academy have created and run their own fair trade group to promote and sell Fairtrade products around the school and the local community. Pupils from Stewarton academy are equally enthusiastic about promoting fair trade and recently hosted their own fashion show to highlight the inequalities of global trade. Those young activists are the next generation of responsible citizens, and they are being empowered at a young age by learning about how they can make a difference to those living in poverty in the developing world.

Fairtrade fortnight is all about raising awareness around the country. We are working closely with stakeholders and considering how best we can support the development of a Scottish fair trade forum to drive the implementation of the fair trade nation criteria. Raising awareness of fair trade is crucial. I was interested to note that, as part of a recent survey, the Scottish public were asked whether they recognised the Fairtrade logo, how much they felt they knew about it and what they thought that it represented. Some 64 per cent of those who were asked recognised the Fairtrade logo, as opposed to 52 per cent in a similar United Kingdom survey. Additionally, 62 per cent correctly associated the logo with the phrase "a better deal for third world producers", compared with the UK figure of 51 per cent. Those are really encouraging figures that show just how quickly the fair trade movement is growing in Scotland.

This year, we have had some really positive messages of support for the fair trade nation campaign. I personally thank the Fratellis, Gail Porter, the Proclaimers and Edith Bowman for their contributions, which are in the fair trade nation brochure that we produced. Having such role models for our young people can be enormously helpful.

Mark Ballard: The minister mentioned the growing recognition of the Fairtrade logo. Does she agree that one of the great strengths of the fair trade movement has been the fact that the Fairtrade Foundation is an independent body that can be relied on and which can give consumers a degree of confidence that, when they purchase a product with that logo on, it is a genuine fairly traded product? Does she share my concern about the current bandwagon jumping by other

companies that sell products that are not fairly traded but, as Christine May said, of “fair trade style”?

Patricia Ferguson: I agree entirely with Mark Ballard. I was concerned to hear about the development of something that might be called “fair trade style”. I must say that I do not have a clue what that could possibly mean, but I urge anyone who sees it to beware and to steer clear.

Last weekend, I attended the fair trade experience in Glasgow. The event has been held for a number of years, but it is fair to say that this year’s event was the biggest so far. I was heartened to see that, so great was the crush of people who wanted to visit the fair trade experience, the hall’s staff had, at one point, to limit the number of people who were going into the hall to the number who were going out, so that they did not exceed the fire regulations limit. It was also heartening to see the number of families and older people who had come along to see what it was all about because they had a personal interest in fair trade. We must take a lead in continuing that momentum.

Last week, I was lucky enough to meet the first UK leg of global journey, more than three years after it set off from Mumbai, travelling through 50 countries including Malawi. That fantastic symbol of the global fair trade movement shows just how many people around the world are joining the fight against poverty.

We are all determined to work in partnership to ensure fair trading conditions for workers in the developing world. Partnership is at the centre of our international development work.

Fair trade can also help to bring Scotland and Malawi closer together. Trade is a truly sustainable way for Malawians to escape poverty and build a better life for themselves. Through the international development fund, the Scottish Executive is supporting the work of Imani Enterprise, a fair trade consultancy with offices in Scotland and Malawi, to encourage sustainable, mutually beneficial trade between the two countries and to help promote Malawian products in Scotland.

We are providing more than £200,000 for a project that will help to develop Malawi trade policy, by identifying and then training Malawian producers to access export markets and by showcasing Malawian products in Scotland via a Malawi trade fair, thereby opening up the Scottish market. That will make a key contribution to our commitments on sustainable economic development in our co-operation agreement with Malawi. That will not only help to develop Malawi’s economy, but, we hope, result in greater sales in Scotland of fairly traded goods from Malawi such

as tea, coffee and nuts. I should also say that members will be able to sample some of those goods at this evening’s reception.

Raising awareness of fair trade is hugely important, as is developing an understanding of the wider issues of trade justice, but the problem of global inequality can be solved only by taking action. I am delighted that there is such enthusiasm for fair trade in Scotland—and across the political spectrum in particular. However, we must not rest on our laurels because we have so much more to do. I look forward to working closely with members in the future on helping to make Scotland a truly fair trade nation.

Meeting closed at 16:41.

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