MEETING OF THE PARLIAMENT

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Scottish Parliament

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

Time for Reflection

The Presiding Officer (Alex Fergusson): Good afternoon. The first item of business is time for reflection, which will be led by Jane Bentley of the Scottish Inter Faith Council youth steering committee.

Jane Bentley (Scottish Inter Faith Council): When friends and colleagues of mine asked me what I was up to today, the best explanation I could come up with was: "Well, it's like 'Thought for the Day'—but scarier." However, time for reflection also suggests time apart; it suggests time to regroup and draw breath before getting on with the business of the day.

At our youth committee meetings, we begin with a minute of silence, which allows each of us to pray or to meditate in the way that is most appropriate to each of our faith traditions. Across all faiths, a value is given to setting apart time in which we can reflect on our lives, our communities and our relationship to the mysteries of existence. Rather than being a retreat from practical engagement, it becomes a way of grounding engagement, of seeing the bigger picture and of sharing our visions for a better world.

The theologian Sigmund Mowinckel called such actions "world-making". In intentionally taking time to reflect on the gap between the world as it is and the world as we think it could be, we ourselves are changed in the process.

So let us take time for reflection.

Let us pause to be thankful for those who first inspired us through sharing their vision of the world and, in doing so, were part of our shaping.

Let us remember with gratitude those who mentored us, guided us or simply gave us a chance and helped us to see the gap between what we were and what we could be.

Let us acknowledge the times in our life when we have fallen short of this potential, not only in what we might achieve but in who we are.

Let us take time to reflect on our hopes and visions for our communities, for Scotland and for our world.

Let us remember situations where we might feel powerless or where resolution seems impossible.

Let us remember situations that we are in danger of forgetting because of the long process of rebuilding and reconciliation needed.

Let us remember situations that provoke our conscience, because they require change on our part.

Let us remember situations where we act and see the effects of work already done—our visions made reality.

And let us remember one another in all our competence, frailty, insight, vision and frustration. Let us value our time for reflection—and world-making.

Borders Rail Link

The Presiding Officer (Alex Fergusson): The next item of business is a statement by Stewart Stevenson on the Borders—

Des McNulty (Clydebank and Milngavie) (Lab): On a point of order, Presiding Officer. Yesterday, *The Scotsman* published what appeared to be an early version of the minister's statement. It might not have been the final version, but this practice of partial and inaccurate advance briefing on ministerial statements devalues the Parliament's authority, even if it provides some comfort to Scottish National Party back benchers. Presiding Officer, will you again remind ministers that providing advance information is not in line with the Parliament's rules?

The Presiding Officer: Thank you for giving me notice of your point of order, Mr McNulty. I have had the opportunity to read the press coverage, which, on reflection, I consider to be of a somewhat speculative nature. However, I would always take the opportunity to remind ministers that it is important that matters come, in the first instance, to the Parliament.

We come to the statement by Stewart Stevenson on the Borders rail link. As always, the minister will take questions after a 15-minute statement, so there should be no interventions.

14:05

The Minister for Transport, Infrastructure and Climate Change (Stewart Stevenson): Today I am able to advise that construction work on the Borders rail project will start within the life of this Parliament. That will be a cause for celebration for all who live and work south of Edinburgh and it delivers on a promise that was made by the Parliament during its second session, when all but two MSPs voted to support the Waverley Railway (Scotland) Bill.

Transport Scotland has completed the due diligence process that was put in train by my predecessor in March 2007, and I am satisfied that we meet the tests that he established for the project. The benefit cost ratio for the project has risen—yes, risen—from 1.21 to 1.32, despite our having had to restate the budget to account for the additional station that was requested by Parliament and to respond to the rise in land values in the Borders.

We will deliver a railway that strengthens some of Scotland's poorest communities, spreads wealth to the regions and provides a sustainable, integrated and cost-effective public transport alternative to the car. Before I go into detail, it will be helpful to give an update on how the project has progressed since the Waverley Railway (Scotland) Act was passed by Parliament in June 2006.

In June 2007, I reaffirmed the commitment of the Scottish Government to provide £115 million—at 2002 prices—towards the scheme and maintained that our continuing support depended on the project meeting the three remaining funding conditions that were set by the previous Administration.

The first of those conditions is that the assumptions underlying the business case must hold, including the achievement of patronage levels, containment of costs, active management of risks, and housing growth projections that are achievable and based on identified market demand. Secondly, a clear and comprehensive risk management strategy must be developed and delivered. Thirdly, the railway must be integrated with local bus services, to ensure that it has the widest possible impact in the Borders and Midlothian.

Since the 2006 act was passed, a number of key items of work have been progressed by the Waverley railway partnership, including ground investigation works, topographical survey works and land acquisition. In addition, work on the outline design commenced in October last year.

In March 2007, it was announced by the previous Administration that Transport Scotland would take over the role of authorised undertaker from the Waverley railway partnership, because the Waverley railway partnership was formed to promote the project through the parliamentary bill process but was not sufficiently well equipped to take it through to completion. Thus, it made sense to transfer powers to Transport Scotland, which is an organisation with proven transport delivery skills, as it has demonstrated in the upgrading of Waverley station and its work on the upper Forth crossing.

Work is under way to transfer the powers to Transport Scotland, and we anticipate that the process will be completed shortly, subject to legal agreements being reached between the parties.

We are committed to a programme of investment that is founded on sound justification and which can demonstrate positive economic and social benefits to the community as a whole. The due diligence exercise examined the full extent of available project information and looked at its robustness to ensure that Transport Scotland has a full understanding of all areas of the project before the official handover from the Waverley railway partnership.

I turn to the main findings of the exercise. Today we cost projects with a clear eye on appropriate optimism bias to cover currently unknown factors.

Incorporating that into our new costings is a key part of our now establishing a robust and deliverable plan that, like other Transport Scotland-led projects, can come in on time and on cost. We have also accounted for land and property inflation, which has been higher than was previously expected. I will return to the numbers later.

The business case was examined more closely, because it did not reflect current and updated information that was available, for example on appropriate patronage levels, train timetabling and expected housing development. Transport Scotland economists undertook a full review of the business case and the underlying information and refreshed and updated the business case accordingly. Thus, the BCR has risen to 1.32.

The funding requirement of a robust risk management process has been met by the Waverley railway partnership as it took the scheme forward. The process will be taken on and developed by Transport Scotland in its new role as authorised undertaker.

The previously stated completion date of December 2011 was never achievable, given the previous Administration's decisions and its requirement to ensure that the project met key tests. The due diligence process has been completed timeously by Transport Scotland, to ensure that we have developed a robust proposal that is based on the preliminary work on the project that the partnership undertook. Today, we know that we start construction during the life of this Parliament, with a two and a half year project to completion.

I am pleased to note that tenders will shortly be awarded for the construction of two road overbridges, as part of the development of Shawfair, which demonstrates the Government's commitment that the railway will not only serve the people who live in the Borders but form part of the transport links for the new development to the south-east of Edinburgh.

Work is continuing on pre-procurement preparations such as outline design, land and property purchase and preparation of contract documents for the whole of the project.

I highlight that the Waverley railway partnership—Scottish Borders Council, the City of Edinburgh Council and Midlothian Council—has worked hard with Transport Scotland on all aspects of the project. Members of the partnership are in the Parliament and their efforts should be applauded.

Members: Hear, hear.

Stewart Stevenson: Procurement for the project is based on the findings of the due diligence process and a reconsideration of the previous Administration's original proposals. As part of the project development and strategy, several procurement routes were reviewed and a decision has been made to take forward procurement using a non-profit distributing vehicle.

The use of NPD models for railways is well established, for example in the financial structure of Network Rail. The details of our final approach will be developed by Transport Scotland, in conjunction with the financial partnerships unit and Partnerships UK, full account having been taken of market soundings and the need for a competitive procurement process. The approach offers a reliable route to achieving delivery to the time and cost targets that we have set.

Transport Scotland will take on the role of authorised undertaker, but that can happen and the project can be successfully delivered only with the continued involvement and commitment of Scottish Borders Council, Midlothian Council and the City of Edinburgh Council, whose representatives I met before I made this statement. The councils are keen to work in partnership with the Scottish Government and Transport Scotland to deliver the project, primarily by delivering their financial commitments but also as significant project stakeholders. We welcome their on-going input into the project and we look forward to working with them in the coming years.

I will not give an exact cost for the railway, because to announce a headline number would prejudice commercial negotiations. However, I can indicate that, at this stage in the project's development, capital costs are indicated to be in the range of £235 million to £295 million. The actual price will of course be negotiated during procurement.

The estimate is higher than previous cost estimates. The previous Administration announced an estimate of £130 million at 2002 prices, which is equivalent to approximately £185 million to £195 million at 2012 prices. The project specification has increased, raising the costs as a result of the commitments that were made during the passage of the bill; some other, necessary technical requirements have been identified subsequently.

Under the NPD partnerships approach that I described earlier, the project capital will be borrowed from the financial markets and repaid over part of the asset life by annual service charges that will be met from Transport Scotland budgets and with contributions from the councils, as before. NPD funding models are a cost-effective borrowing mechanism that avoid the high interest rates of private finance initiative funding and leave ownership of the asset in public hands throughout.

At the heart of the project is the need to build a dynamic and growing economy—one that provides prosperity and opportunities for all. The railway will help to provide those social inclusion benefits, which in turn will strengthen some of Scotland's poorest communities and spread Scotland's wealth to the regions, in line with the Government's economic strategy. The potential to grow the local economy will be enhanced by the ability to offer a full range of housing, including affordable options, in both the Borders and surrounding regions. Indeed, a number of major developers have already shown a clear interest in the scheme. We will continue to engage interested parties as the scheme develops.

The railway will provide a sustainable, integrated and cost-effective public transport alternative to the car, connecting people, places and workplaces across the Scottish Borders and Midlothian and into Edinburgh. By moving people from their cars on to safe, fast, clean and reliable train services, the railway has the potential to reduce the number of accidents on the A7 and A68. It will create a sustainable mode of transport that will reduce carbon emissions in the regions. Indeed, by introducing the railway, we estimate that some 450,000 tonnes of carbon will be saved, with a monetarised value of about £4 million over a 60-year period.

Journey times from the Borders to Edinburgh, and vice versa, will be greatly improved. At peak times, people will have to travel for less than one hour from Galashiels to the centre of Edinburgh. That is a major improvement on current bus and car journey times. The due diligence report states, and we firmly believe, that

> "the Waverley railway project is in line with national, regional and local policies which seek to encourage more sustainable and integrated forms of transport, reduce the impact of traffic on the environment and encourage walking, cycling and the use of public transport".

From the discussions that I have held, and particularly from correspondence that I have received, I am aware of the considerable support for the project. I am also aware that some remain concerned about the proposal. I hope that today's announcement helps to allay those concerns. By reinstating the Government's commitment to the construction of a railway to the Scottish Borders, we will bring real benefits to communities by attracting businesses and increasing access to jobs, education and health services.

Further major benefits that the rail link will bring include improved access to the Borders, the opening up of employment and housing opportunities, the creation of potential economic development, the reduction of road congestion and accidents, the provision of opportunities for tourism and the removal of the perceived isolation of some of the areas that the railway will go to, especially in the Borders.

I have set out for the chamber today the plans for the successful delivery of a railway to the Scottish Borders region. By selecting the most appropriate method of procurement, we can now move forward and deliver a railway that will successfully reconnect the Borders region to the rest of Scotland.

The Presiding Officer: As I indicated earlier, the minister will take questions on the issues that were raised in the statement. We have around 30 minutes for questions.

Des McNulty (Clydebank and Milngavie) (Lab): Following the short transport review in May and June last year, ministers have taken nine months to come up with an announcement of further delay. Instead of completion in 2011, we have the commencement of construction in 2011. Because ministers have taken nine months to reinstate—their word—the project, costs are up and people in the Borders are still waiting. They will have to wait longer because, we are told, the project is to be procured through a non-profit distributing vehicle, which is not, to use the minister's words again

> "an organisation with proven transport delivery skills".

How long must we wait for market soundings, for clarification over borrowing powers and for a competitive procurement process to be put in place? Ministers have repriced the £115 million at 2002 prices to £175 million to £185 million at 2012 prices. Who pays for the increased specification that has been referred to? Ministers have identified the indicative costs as £235 million to £285 million. The previous amount to be paid by the councils was £15 million—[*Interruption.*]

The Presiding Officer: Order. Excuse me, Mr McNulty. I look to the members on the front benches to set an example in terms of sedentary interventions.

Des McNulty: They have no class.

Who is to pay the £60 million to £110 million gap between the minister's contribution and the contribution from elsewhere? What is the impact on the Transport Scotland budget? When will the first train run on the Borders railway?

Finally, you are not just the transport minister—

The Presiding Officer: Indeed I am not, Mr McNulty.

Des McNulty: Mr Stevenson is not just the transport minister; he is also the planning minister. Housing organisations in Scotland are saying that Scottish Borders Council is not giving sufficient planning consents to meet the requirements that it set out when it proposed the scheme. What are you going to do about that gap in the business case?

The Presiding Officer: Nothing personally, but perhaps the minister would like to give his answer.

Stewart Stevenson: I would very much welcome your assistance, Presiding Officer, if you would care to give it.

Not a single day's delay has been derived from any action of this Government. In March 2007, the then Minister for Transport put into play the process—Transport Scotland's due diligence process—which we have now completed. We have—to the letter, to the spirit and to the timetable—pursued what was put in place by the previous Administration. Once again, in seeking to aim at the Government, Mr McNulty has shot off not one foot but both feet.

However, Mr McNulty asks some important questions, to which I have the answers. He asks about the financial contribution of the councils. The councils have agreed that they will provide £30 million for the project. Not only is that amount capped, but by funding the project through the NPD approach, that money will be paid over the lifetime of the loan and not in a lump sum. I think that that will be substantially welcomed by the councils.

Yes, I am the planning minister and, yes, there are concerns throughout Scotland about planning decisions. I ask members please to accept that Scottish Borders Council is absolutely aware of its responsibility in that regard. I am confident that it is moving forward. Its various plans reflect the housing that has to be built to make the project BCR work. I am confident that in Scottish Borders Council and in the other councils that are party to the project, we have partners with whom we can work—partners who, with us, will deliver a long-term and critical benefit for the development of the Borders.

Derek Brownlee (South of Scotland) (Con): There will be disappointment but probably not much surprise in the Borders at today's announcement of further delay and cost increases. I will leave members of the former Government and of the current one to squabble about who is to blame for that.

I ask the minister for more clarification on the funding, which goes to the heart of the question whether the Borders railway will ever actually happen or whether it will simply be put in election manifestos year after year.

The costs that the minister is projecting today are a conservative estimate of £235 million or an upper estimate of £295 million. He has not announced an increase in Government support—I would be grateful if he would confirm that—and, by my calculation, Government support stands at about £155 million. On top of the £30 million contribution from the councils that he mentioned, there is a funding gap that I estimate to be between £50 million and £110 million. Who will fill that funding gap and how will he be able to attract investment into the non-profit distributing vehicle until there is certainty about the funding of the railway?

Stewart Stevenson: Let me start by stating the obvious: the funding will be reflected in the Government's figures in the next comprehensive spending review. The capital expenditure will come from outside Government. It may come from the regulated asset base that Network Rail provides or by other means but, in any event, the interest rates will be substantially less than those that we have seen under the PFI models that Derek Brownlee's colleagues introduced at Westminster when they were in government. The interest rates for those are often in excess of twice the base rate.

The interest rates that we are talking about in the NPD model—or, for that matter, in the regulated asset base model—are a few basis points above the base rate. That is because the distribution and management of risk are tackled differently. Therefore, I assure Derek Brownlee that there is real enthusiasm in the financial community to provide capital against a secure asset with a long-term future and minimised risk. When risk is minimised, risk pricing—which is reflected in the interest rates—is correspondingly less. [*Interruption.*]

The Presiding Officer: Order. Members will have lots more opportunity to ask questions and, if they stop me interrupting, they will have even more time in which to ask them.

Stewart Stevenson: I assure Derek Brownlee that, in the meeting that I have just had with the Waverley railway partnership, there was real enthusiasm for the announcement that I have made today and significant support for joining us in taking the project forward. I am afraid that he is a lonely man if he is disappointed.

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): I thank the minister for advance notice of his statement, which, regrettably, raises more questions than it provides answers. People in the Borders will be aghast that, after reviewing the scheme for a year, the Scottish National Party Government will commit only to starting the project sometime before 2011. They will also be deeply concerned that the way in which the Government intends to fund it has not even been written yet.

What is the start date for construction? I do not want to hear just that it will be some time within the next three years. When will the Government publish a document that states and guarantees that funding is in place for the project?

When was the due diligence process actually completed? I understand that it was completed before December, so the Government has caused three months' further delay because of uncertainty over the funding method. The minister stated that the due diligence process was carried out to a timetable from the previous Government. Will he publish the timetable that he claims exists?

How much money will be borrowed to fund the railway? The minister stated that any sign of Government investment in the project will be published in the next spending review period, which starts in 2011.

There now needs to be a full debate in the Parliament on the issues that have been raised. If the minister can answer all those questions, of course we will support him; unfortunately, they are fundamental questions to which he needs to respond.

Stewart Stevenson: I confess to my colleagues that I was wrong: there are two people who are disappointed. However, they come from pretty predictable sources and the rest of the Borders will be celebrating substantially.

I simply must explain that the process that we have gone through is the one that Jeremy Purvis's Liberal colleague put in place as Minister for Transport, with the three conditions to which we signed up and which we have implemented. Had a different political figure been standing here, the timetable would have been no different. There is no delay.

On how much money the Government is required to put in, I have told members that the overall cost of the project is in the range of £235 million to £295 million. I realise that members may have limited business experience, but I have told them that the moment that I state a specific figure, I compromise Transport Scotland's ability to get the best possible price for the project. Whatever else we might disagree on, we should surely agree that, when we spend public money, we must seek value for money. That means not tying our hands.

There is a clear set of parameters that shows the money that the Government will need to put in place. We will start the construction in the life of this Parliament.

Members: When?

Stewart Stevenson: That is when we will do it: in the life of this Parliament—in the life of this Parliament. [*Interruption.*] I can say it as often as members like; I realise that some people simply do not want to hear good news. We will start the project in the life of this Parliament.

On when the Government must start to make budgetary provision, to some extent, that is to do with our negotiations with whomever provides the project. Clearly, it will be at a stage when we are moving through the project, in the next comprehensive spending review period. Beyond what is already in the budget, no significant amount of money is required for something that the Parliament agreed to so recently—and so decisively, with only a single vote against the project.

The Presiding Officer: We move to questions from back benchers. As always, a large number of members wish to ask questions, but there is a limited amount of time available. Brevity, in both question and answer, is to be encouraged.

Christine Grahame (South of Scotland) (SNP): I remind the minister and the Presiding Officer that I led the first debate on the reinstatement of the Borders line as far back as November 1999. In 2000, having debated a motion from Alex Johnstone's Rural Affairs Committee, the Parliament voted unanimously for the line's reinstatement. It is a bit rich to hear Jeremy Purvis and Des McNulty asking us when we will start building the line when their parties had eight years in which to lay track. I welcome the end to the speculation.

At least security has now been brought to the local councils. There was wild speculation from Opposition parties represented here that—

The Presiding Officer: A question, please, Ms Grahame.

Christine Grahame: There was speculation that the railway line would not proceed. I welcome the ending of uncertainty for those whose homes have been blighted over the past eight years, when not one bit of track was laid.

Stewart Stevenson: I know that the councils will move forward with the project in partnership, and that they welcome the announcement. I am sure that Christine Grahame is absolutely correct to say that people living on the route will welcome the ending of the uncertainty that was created by the dithering and delay of the previous Administration.

Rhona Brankin (Midlothian) (Lab): I thank the minister for his statement—or should I say his non-statement?

The Parliament is aware that four of the seven proposed stations are in my constituency of Midlothian, which is a growing county; 5,000 new homes are planned for the Shawfair development alone. Together with the Borders, Midlothian remains the only mainland area that has no access to rail services. Why, after nearly a year, have we gone from having a completion date of

2011, as promised by the previous Labour and Liberal Democrat Executive, to not even having a definite start date, let alone a definite completion date? Will the minister explain that to my constituents?

The minister said that there would not be a single extra day's delay. By my calculation, there is now a delay of 912 days. Will the minister promise the people of Midlothian and the Borders that the funding will be put in place to complete the project? Will he undertake to return to the Parliament with a further statement, including a definite start date, a definite completion date and real detail about the funding mechanism and other funding details? Will he end the uncertainty that has been caused by this delay and his tardy statement?

Stewart Stevenson: I am pleased that Rhona Brankin welcomes the new stations in her constituency. She is wrong, however, in saying that it is the only mainland area without stations. My constituency has none, and I am not yet planning any. At least I am being fair to Rhona Brankin. I hope that she will be fair to me if I propose a plan for stations in Peterhead or Fraserburgh, for instance.

With the details that were contained in my statement, the Government seeks to be straightforward and unambiguous and to give certainty. Those people who have come to this place and to whom I have spoken before on the matter accept that I am doing that.

No part of the critical path for this project is related to the work that we have to do on funding—that is well off the critical path. We are using NPD, a model that is well established with Network Rail. That is exactly how the regulated asset base works. I realise that there might have been no intensive study of railway funding by members to my left or by some members to my right—I suggest that they go and see how railway funding works. The model is well established and we will proceed with it, whether with a regulated asset base or by another means.

Shirley-Anne Somerville (Lothians) (SNP): I welcome the minister's announcement, which is good news for not only the Borders and Midlothian but the city of Edinburgh. As the minister said, the project will have implications for the city in relation to transport infrastructure, for example. Is the minister confident that Waverley station will have the additional capacity to provide a regular commuter service that will meet the needs of residents and employers in Edinburgh, the Borders and Midlothian?

Stewart Stevenson: I am able absolutely to assure Shirley-Anne Somerville that we will have the necessary capacity at Waverley station. We are looking to run a half-hourly service. In undertaking the due diligence process, we have been able to identify a three-minute saving in the journey time, which will improve the quality of the service available to all the people who use the route.

Sarah Boyack (Edinburgh Central) (Lab): Will the minister still make a direct contribution to the project up front? In June 2007, he set a figure of £115 million. Is he capping his contribution at that level and leaving the rest to be paid over time by way of the business model that he suggested? Alternatively, is he taking the capping approach that he took with the City of Edinburgh Council on the tram project, whereby he set a cap up front and left all the rest of the money to be delivered by somebody else?

The statement did not clarify exactly how the funding regime will operate. What will the minister spend up front? Did he not let the cat out of the bag by using 2012 costings? Is he not admitting that the project will not be completed in his term of office and that there is a question mark over whether it will even start in his term of office, given the complex, novel approach that he is taking, which we have not seen before in relation to Scottish railways?

Stewart Stevenson: The only cap in the funding is on the councils' £30 million, which is one of the reasons why the councils welcome the approach that the Government is taking.

Sarah Boyack might have misunderstood totally the £500 million for trams. We have offered the City of Edinburgh Council a better deal than the previous Administration. We have not said that the £500 million, and no more, is for phase 1a; we have said that if the council can bring in phase 1a under £500 million—and the signs are that it can—it can keep the change for phase 1b. We have taken the message from Parliament on trams and we are providing the kind of support that the City of Edinburgh Council only dreamed of before, but which this Government is now delivering.

The Presiding Officer: I am keen that questions and answers should stick to the Borders rail link.

John Lamont (Roxburgh and Berwickshire) (Con): I thank the minister for his statement. I express my frustration that the project is not ambitious enough for the 21st century, in which we live. Why is there no freight capacity on the new railway? Why will the Government not give a commitment to connect the railway to Hawick, Carlisle and on to the west coast main line? Can the minister answer the questions from my constituents in the eastern Borders who will not use the railway to Galashiels? Will he give a commitment that he will consider reopening the

Reston railway station on the east coast main line?

Stewart Stevenson: I will confine myself to matters of the Borders rail link in my response.

Mr John Lamont need not be frustrated. We would be delighted to have freight on this line, as on others. There are issues relating to timetabling for freight. However, we have provided generously that a third of the distance will be dualled, providing dynamic passing loops. That should provide the capacity to support freight traffic.

Taking the line to Carlisle would extend it by more than the distance of the line that we are building at the moment. I am a railway enthusiast and I would be interested to hear John Lamont's business case for extending the line to Carlisle. If it makes sense, I am entirely happy to incorporate it in a control period 5 submission, which this Government expects to make in its second period of office.

Alison McInnes (North East Scotland) (LD): If the minister wants to open a railway line to Ellon and Peterhead, I will stand beside him on that.

I echo the disappointment that members have expressed this afternoon. It seems to have taken a very long time to tell us very little. I do not detect a great deal of certainty in the minister's statement—as has been said, the key issue is that there is no clear start date. There are also questions around the proposed funding mechanism. I welcome the confirmation that the councils are making a fixed contribution, but I would be grateful if the minister would state unequivocally that he will fully meet the added costs. The support from the other partners is perhaps not enthusiastic, but pragmatic. When will the Government publish an agreement on the funding process? How can we hold it to account, on time and on cost, if the minister has not given us those details yet?

Stewart Stevenson: I say, once again, that we will start building the link in the life of this Parliament. People beyond the Parliament, as well as parliamentarians, will call the Government to account on that matter. Yes—of course, there are lots of people supporting it, pragmatically and enthusiastically. I am somewhat amazed at the synthetic alarm, concern and uncertainty that have been whipped up today by too many members in the chamber. We in Government have ended the uncertainty, given the certainty of funding, shown the way forward and ended the dithering; we will deliver on this vital project.

Robin Harper (Lothians) (Green): Despite the reservations that have been expressed, I am happy to broadly welcome today's announcement. The minister did not answer John Lamont's question on Hawick. Is there any good reason why the line should not eventually be extended to Hawick, given the needs of the town and that part of the Borders?

Stewart Stevenson: I sought to say—and I say once again to Mr Harper—that I am entirely happy to receive outline business cases for extending the railway network anywhere in Scotland. The railway network is a vital part of our transport infrastructure and will increasingly be so in the future. Members will recall that the national planning framework includes the aspiration that, by 2030, we will have electrified all Scotland's railways. If that is not a clear signal of the importance that we place on railway networks present and future, I cannot imagine what is.

Ian McKee (Lothians) (SNP): I congratulate the minister on his announcement, which he delivered with his characteristic degree of understatement. He told us about the benefit of the Borders rail project in getting people out of their cars and on to public transport. Does he have any information concerning any effect of this railway development on local bus services?

Stewart Stevenson: Ian McKee is right to raise the subject of bus services. Members will recall that the third of the conditions for moving forward on the project is that the new railways should be integrated with local bus services. We, as a Government, are working on through-ticketing proposals that will be of assistance in improving the co-ordination of various modes of travel throughout Scotland, so that people can get off one mode and on to another with minimum delay. As we progress the plans in the Borders—we have to work with the regional transport partnerships and with the local councils to deliver on this—we will ensure that that third condition is met and that bus services are an important part of taking the project forward.

Charlie Gordon (Glasgow Cathcart) (Lab): The minister announced that procurement of the project will take place via an NPD vehicle, which will be similar in its financial structure to Network Rail, but will not be Network Rail. Can we expect Network Rail to be supplanted, not only in the procurement of other rail projects, but in the operation of the infrastructure of the Borders rail link after its completion? In other words, is there a chance of the vertical reintegration of railway operations in Scotland?

Stewart Stevenson: Wow—that is a crackerjack question from Mr Gordon. At the current stage of the procurement process, I hope that Network Rail will come forward with proposals that make sense for the development. Of course, under the European procurement rules, we will have to consider proposals from elsewhere.

Reintegrating the rail network in the way in which Mr Gordon suggests might not be wholly within the gift of the powers of the Scottish Parliament, but it is perhaps worthy of note that there is considerable interest from people south of the border in how we are developing and supporting our rail network. That stands in contrast to the way in which they manage the rail network, which is on the basis of trying to minimise cost rather than delivering value.

Alex Johnstone (North East Scotland) (Con): I note with some satisfaction that the minister said that the Borders railway will move people

> “from their cars on to … fast, clean and reliable train services”.

Will he give an undertaking that that hurdle will not preclude ScotRail from becoming the service operator? [*Laughter.*]

Stewart Stevenson: There are occasions when members allow humour, perhaps, to be deployed at the expense of appropriate descriptions of services.

ScotRail has made huge strides in the period for which it has been a franchise operator and it is looking forward to operating services on the Borders link. I am sure that we will continue to have a fruitful and productive relationship with ScotRail during the period of the franchise.

As a minister, I have now made more than 230 journeys by rail, almost all of which were by ScotRail, so I know from experience that when it is bad, it is no very good, but most of the time it is damn good.

Jim Hume (South of Scotland) (LD): Like my fellow Liberal Democrats, I will continue to campaign for the line to go through Hawick to Carlisle.

The minister mentioned accidents on the A7. Does he agree that the number of accidents on the A7 between Galashiels and Edinburgh would be reduced if the road was retrunked? Will he agree to retrunk that short piece of road?

Stewart Stevenson: I am cautious because of the reminder that you gave earlier, Presiding Officer, but I am even more cautious of making commitments on the hoof. Opening the Borders rail link will play an important part in relation to the issue of accidents on the A7, but it will not relieve us of the obligation to examine our road infrastructure as well.

Tricia Marwick (Central Fife) (SNP): As convener of the Waverley Railway (Scotland) Bill Committee, I welcome the SNP’s commitment to ensuring that the project is built. I remind members that it was Tavish Scott who lodged the amendment at stage 3 that extended the period to develop the land by up to 10 years—in other words, until 2016. That amendment was supported by the Labour Party and the Liberal Democrats. Tavish Scott said:

> “large-scale construction projects can be subject to delay.”—[*Official Report*, 14 June 2006; c 26667.]

At that time, he was already anticipating that it could take until 2016 to build the project, so it ill behoves the Liberal Democrats and the Labour Party to whinge and complain about any delays in the project. [*Interruption.*]

The Presiding Officer: Order.

Tricia Marwick: My question to the minister is about developer contributions. Under the Waverley Railway (Scotland) Act 2006, developers of housing near the line of the Borders railway were to contribute to the cost of the project, but I did not hear the minister mention that. Will he elaborate?

Stewart Stevenson: We are indeed on track, as Ms Marwick says. I am grateful for her prodigious memory. I find it difficult to remember anything that Tavish Scott has said, but she clearly remembers everything. I congratulate her on that.

The £30 million that we envisage will come from the councils is predominantly developer contributions. That is why it is heartening to see Scottish Borders Council firmly engaged in delivering on the housing programme, which will be the source of such developer contributions.

Karen Gillon (Clydesdale) (Lab): For the avoidance of doubt, will the minister clarify why, if funding is not an issue, construction cannot begin before the end of the life of this Parliament? When will construction begin?

Stewart Stevenson: Construction will begin before the end of the life of this Parliament.

Peter Peacock (Highlands and Islands) (Lab): The minister seems to have announced that Government grant is now changing to somebody else’s borrowing. Will he have to give borrowing powers to anybody for that purpose and, if so, to whom will he give them? Does he have the power to give those powers, and will the capital cost that will be borrowed count against the Scottish block?

Stewart Stevenson: It will not count against the Scottish block. The member is aware of the changes in international accounting rules, which will affect all public borrowing and how assets and borrowings are carried on Government balance sheets throughout the United Kingdom. That subject will affect us and, more fundamentally, the Westminster Administration; we will continue to engage in discussion on it to protect the Scottish interest.

Organ Donation Task Force Report

The Deputy Presiding Officer (Alasdair Morgan): The next item of business is a debate on the organ donation task force report.

14:52

The Deputy First Minister and Cabinet Secretary for Health and Wellbeing (Nicola Sturgeon): I am delighted to open the debate. I fully expect it to be constructive and consensual. There are some real issues at stake, and this is a timely occasion for members to have an initial opportunity to express their views on many of the issues.

First, I underline my personal commitment and that of the entire Government to implementing in Scotland all the recommendations in the report of the organ donation task force, which I launched in January. Let me also record my thanks to the task force for the work that it has done to date and the work that it will continue to do, particularly on presumed consent—a subject that I will touch on later.

It is important to say that, in taking forward the recommendations, we are working and will continue to work closely with other United Kingdom health departments. Issues of organ donation and transplantation are dealt with on a UK basis, and on that issue—if on very few others—I believe that that is in Scotland's interest.

The reason for our commitment to the task force recommendations is clear. Organ transplantation is one of the great successes of modern medicine. I had the great privilege a few months ago of witnessing a live kidney transplant at Edinburgh royal infirmary. That brought home to me how awe inspiring the achievements of modern medicine can be. If there was ever any doubt about that, we would only need look at the extraordinary recent achievement of the transplant unit at the Edinburgh royal infirmary in performing the first living donor liver transplant. That procedure—and the incredible bravery of one woman in donating more than half her liver to save her husband's life—was necessary precisely because we have in Scotland a severe and increasing shortage of organs for transplant. That is why we have a duty to act.

Despite all our efforts to date, Scotland's organ donation rate is the lowest in the UK at 9.8 per million population. That is despite our having proportionally more people on the organ donor register than does any other part of the UK.

Mike Rumbles (West Aberdeenshire and Kincardine) (LD): Does the cabinet secretary have any idea why that is the case? Is it because we do not implement the existing system well?

Nicola Sturgeon: There are many reasons for the situation—some are understood and some are not. What the member cites is one of the reasons, so that makes the recommendations of the task force report important.

If we have the lowest organ donation rate in the UK, the UK's donation rate in turn—at 13.2 per million population—is one of the lowest in the European Union. Countries such as Spain show what is possible. Spain's rate is 33 per million and, in some parts of Spain, such as the Basque country, the rates are even higher.

The task force's recommendations are designed to increase significantly the rate of organ donation. The task force is convinced that if we implement its recommendations in full, we can achieve a 50 per cent increase in organ donation within five years. I will spell out what that would mean. It would make possible an additional 1,200 transplants throughout the UK, 700 of which would be kidney transplants. Apart from providing improved quality of life for recipients, those 700 transplants would bring significant savings on the cost of hospital dialysis.

I have asked the Scottish transplant group to oversee implementation of the recommendations in Scotland and it is extremely enthusiastic to do so. In infrastructure, we are rather better off than the rest of the UK, because our transplant co-ordinators are already funded nationally. We also have the experience of piloting the Scottish organ retrieval team, which underpins the task force's recommendations on retrieval arrangements.

I will concentrate on what might be called the performance management aspects of the task force's recommendations, because the recommendations on that need the most modification to suit how the national health service operates in Scotland and we have the most work to do on that. The task force's fundamental underlying aim is to make organ donation a usual, not an unusual, event when someone dies in circumstances that would allow them to donate. We have made a start by highlighting that in "Better Health, Better Care: Action Plan", but I am pleased that the transplant group is setting up a short-life working group to think of further ways in which we can bring organ donation to the proper attention of senior management and medical staff in NHS boards. The working group may want to think about developing a chief executive letter or even a health improvement, efficiency, access and treatment—or HEAT—target. It will also start thinking about targets and performance indicators.

One of the task force's key recommendations is about promoting organ donation to the public. That is already a statutory duty on the Scottish ministers under the Human Tissue (Scotland) Act 2006. Research on previous campaigns shows that for every 100,000 people who put their name on the organ donor register, about three will become kidney donors over 10 years. The clear imperative is therefore to increase the volume of registrations. We need to expose a mass audience to the message.

I am therefore pleased to launch today our main advertising and publicity campaign for 2008. For the first time in Scotland, it will use television as its medium. We have prepared a 40-second advert that builds on the award-winning kill Jill/save Dave approach that has been used in newspapers in the past two years. I will not attempt to describe the advert, which starts screening tonight, but copies of it have been made available to members. To ensure that the advert has maximum effect, from 10 March onwards it will be preceded by one of five one-minute programmes that show the human dimension of organ donation and transplantation and allow the issues to be explored in greater depth.

I encourage everyone—MSPs and the wider public—to sign up to the organ donor register today. It takes only a few minutes, but it could save a life. It is important to ensure that our families know our wishes. None of us likes having such conversations, but they can help to save lives, and knowing what someone would have wanted generally makes things easier for bereaved relatives.

The final and perhaps most controversial issue that I will touch on is presumed consent. I have made my personal view on the issue clear many times. I have increasing sympathy with a move to presumed consent as the basis of organ donation, and I know that many people within and outwith the chamber share that view. However, I also know, from the media and from correspondence that I have received, that some people take a very different view. That is why we need a full and open debate before a decision is reached. Although I am sympathetic to presumed consent, I believe that a move in that direction without widespread public agreement would be counterproductive.

It is important to emphasise that a move to presumed consent is not a panacea and would not be a substitute for implementing the recommendations of the task force. That work will continue to be essential regardless of what we might or might not decide to do, as a Parliament and as a nation, on presumed consent. We need to debate the pros and cons in a non-party-political manner, as I am sure we will. Opinion on the issue is divided within parties as well as between parties, and we need to ensure that the debate is conducted properly and appropriately. We must also be clear about the degree of support that exists for such a change among the public and the health professionals who are involved before we take any concrete steps in that direction.

I am pleased that the organ donation task force has agreed to take a thorough look at all the risks and benefits that a switch to presumed consent would involve. The task force has agreed to produce a report by the summer to inform the way forward. In producing that report, it will hold a series of workshops—some of them in Scotland—to explore in more detail the many clinical, ethical and other issues that are involved. I encourage all members to make their views known and to encourage their constituents to do likewise.

As the debate proceeds, it is important that we continue to pursue vigorously the task force's original recommendations, and I assure the Parliament that we will do so. Too many lives are at stake—lives that could be saved with a higher rate of organ donation—for us to do anything else. I hope that, as we do that, we will have the full support of all members.

15:02

Margaret Curran (Glasgow Baillieston) (Lab): I welcome the minister's speech. Labour wants to play a full and constructive part in the debate and we acknowledge the issues that she has laid out. This is an important debate for Scotland and the minister has made it clear that it will continue. It is, undoubtedly, a matter of great sensitivity and there is an onus on us, as parliamentarians, to appreciate that sensitivity. We must be alert to the many members of the community who have serious doubts and concerns about the way forward—perhaps from experience. As the minister said, we must have a full and open debate, and we all have a part to play in ensuring that that is how it is conducted.

Many members will remember the recent members' business debate on presumed consent, secured by George Foulkes's motion. He has played a critical role in bringing the matter to the attention of the public and in facilitating the broader debate that we must have. It is vital that we have that debate ahead of any decisions being made. As was said during that members' business debate, there are many issues that can be addressed as preliminaries to a discussion on presumed consent—issues that arise from the recommendations of the organ donation task force. What also became evident from the members' business debate was what has happened in other countries significantly to increase their rate of organ donation. Those countries improved donation rates by implementing systems similar to those recommended by the task force.

It is fair to say that, both in the chamber—as was evidenced in the members' business debate—and more broadly around the country, the importance of organ donation is understood and people see the impact that it can have in saving lives. It is perhaps the ultimate act of generosity and expression of humanity and solidarity with others for someone to give the gift of life as their final act. When we discuss presumed consent, I know that we will debate what a gift is, but I am using the term in its broadest sense. Most people are with us and understand the significance of that gift in the saving of lives.

Mike Rumbles: The member keeps using the term "presumed consent", as did the minister. George Foulkes has also used it. Does the member agree that we need to find a better term? Consent has to be informed and someone has to have the capacity to give consent. Whatever it is, it is not presumed consent.

Margaret Curran: That is an interesting point; I know that Mike Rumbles made similar points during the recent members' business debate. I will argue strongly that we need to hear the cases for and against presumed consent and that the issues must be thoroughly tested, as must the language that we use, which is critical. There is no point in thinking that presumed consent is an easy solution while masking some people's doubts; it must be thoroughly tested and I will make that point later.

The point that I am trying to make at the moment is that the public is with us on the need to facilitate organ donation, but how we do it is more contentious. Significant steps were taken during the passing of the Human Tissue (Scotland) Act 2006, and I associate myself strongly with the points that have been made about the need to encourage registration. MSPs should play a role in that. It is very easy to register and we could all highlight that in our constituencies.

Public awareness has grown because of the acknowledgment of the challenges that we face. According to the British Medical Association circular that we have all received, in 2006-07, 100 people in Scotland died while they were on the organ transplant waiting list, or after being removed from it because they were too ill. There is also a gap between the number of people who are willing to donate their organs and the number of people who need a transplant. It is vital that we address that gap.

In Scotland, the number of people who are on the organ transplant waiting list increased by 20 per cent during the years between 2005 and 2007. Without rehearsing some of the minister's statistics, there is a significant gap between us and our European partners. The minister quoted Spain, which is the European leader in the field. In Austria, the figure for organ donation stands at 24.8 per million population. It is less than 10 per million population in Scotland, as the minister said. We have to understand why that is the case and what we can learn from it.

During the members' business debate, Mary Scanlon said that we must take decisive action on the recommendations of the organ donation task force. Those recommendations reflect how Spain increased its organ donations to the current level. It is about retrieval and co-ordination, and working on those issues will make a significant contribution. As long as they are delivered effectively, we could push towards the task forces' estimate that it is possible to increase the organ donation rate by 50 per cent within the next five years. However, effective delivery is vital.

I will not push the minister on this point; I will take her word for it when she says that the Government will work effectively and constructively across the UK to make sure that the required work is co-ordinated and delivered effectively. A great deal could be done through the appointment of national co-ordinators and—I defer to Richard Simpson on this because he knows more about it than I do—the training of all clinical staff. That is significant, particularly in relation to their work with families. As I understand it, the research proves conclusively that trained intervention supports families better. There is a gap between the decisions that people make when they are bereaved and those that they make later. They might regret that they did not decide to donate at the time of the death. We all understand that distress and trauma are involved in such decisions, so trained staff are vital to that process.

I will talk about presumed consent, although I accept that we might need to think about Mike Rumbles's caveat. The issue is obviously very sensitive; that must be emphasised time and again. By definition, the issue will be distressing for all those who are involved. Before we make decisions in the chamber, or come to any conclusions about further work that might be required, it is vital to have a widespread and informed public debate.

George Foulkes will undoubtedly—as he has done so effectively on previous occasions—put some of the arguments for changing the present system, but we must also understand and address the arguments against such a change. One factor that should be highlighted in any move towards such a change is the need to ensure that medical staff, particularly doctors, properly engage with families. The issue that families' concerns might be overridden by doctors needs to be properly addressed and, indeed, was addressed by Richard Simpson during the members' business debate. I think that we can develop approaches to deliver on that issue, but there is a significant need to ensure that we have proper safeguards in place.

As some members may be aware, a doctor in New York is currently being prosecuted for allegedly hastening a patient's death in order to retrieve the patient's organs. Obviously, that is an exceptional case—I do not imply that the same would happen in a British context—but people undoubtedly have concerns and worries about that. Therefore, it is vital that we ensure that proper safeguards are in place. We know from previous experiences how families feel when they are not properly consulted on what happens to their loved ones.

I think that we can still argue that choice can be at the centre of our policy, even if we go for a presumed consent model. People must be able to feel that they have a choice, so a strong opt-out must be available. The system needs to be designed properly.

I do not think that we are equipped to make a decision at this stage in the parliamentary process. It is vital that we have a widespread public debate and that we encourage active participation in it throughout Scotland. We need to be alert to people's concerns—which some members have expressed quite forcefully—about the contradiction, as it were, in presumed consent. We need to be clear about when consent is actually consent and how we facilitate that. At the heart of the debate there must be a real desire to ensure that we increase organ donation throughout Scotland, but we need to be open-minded about all the possible methods for achieving that.

15:12

Mary Scanlon (Highlands and Islands) (Con): As the Scottish Conservatives have agreed to a free vote on organ donation, the views that I will express are personal, rather than those of my party.

Having previously contributed to the excellent members' business debate that was secured by George Foulkes, I will not apologise for repeating to today's broader audience some of the points that I made on that occasion. However, I agree with the minister that it is essential that we implement the task force's recommendations, regardless of whether we move towards presumed consent.

My first point is that we should not lose sight of the need for prevention. Given the increase in type 2 diabetes and given the fact that diabetes is the main contributory factor to kidney failure, we should ensure that enough is being done to diagnose, manage and prevent diabetes.

Secondly, like Mike Rumbles, I have difficulty with the concept of presumed consent. In my opinion, it is a contradiction in terms. Presumed consent is not consent. To consent means to agree or to give assent. Consent—whether to sex, marriage or the donation of body parts—cannot be presumed; it can only be given freely by an individual. Similarly, a donor of organs is a giver of organs. Donation is by choice, whether financial or otherwise. A donation is willingly given; it is not willingly taken, whether by the state or anyone else.

My third point is that opting out is not a familiar concept to most people in this country. Those should be the starting points for the debate.

Organ donation is a matter of individual conscience and freedom rather than a matter for the state. The fact that hundreds of people die each year because organs are not available is tragic, but the question is whether a system of presumed consent is the answer.

I am pleased to note that the Government will take on board the task force's recommendations, which will potentially increase organ donations by 50 per cent within five years. However, the main point that the report highlights is the current lack of a structured and systematic approach.

The introduction of co-ordinators, not the introduction of presumed consent, is the main reason for the increase in organ donation that has taken place in Spain. When the current Spanish model was introduced, Spanish officials created a network of transplant co-ordinators to act as the main point of contact between donors, recipients and medical staff. According to the UK Transplant website, there are a significantly higher number of road accident deaths in Spain than in the United Kingdom, which suggests that, even if the Spanish model were used in the United Kingdom, we might still not reach the same level of organ donation as in Spain.

Spain has three times as many intensive therapy unit beds and three times as many transplant doctors as the United Kingdom. I am pleased that the cabinet secretary has taken on board the report of the organ donation task force, but there is a desperate need to build up the infrastructure of staff, co-ordinators, beds and systems in order to increase the number of transplants. That is far more urgent than imposing a system of presumed consent.

According to the UK Transplant website, the number of organ offers that were refused by Scottish transplant centres due to a lack of staff or infrastructure problems doubled between 2006 and 2007, from 21 to 41. We also do not know how many people in Scotland were willing to give organs but were never asked to do so. We need to have that piece of information before moving to any system of presumed consent. An increase in the number of organ donations will not lead to an increase in the number of transplants without crucial investment in the NHS.

I hope that the current network of donor transplant co-ordinators will be expanded and strengthened through central employment by a UK-wide organ donation organisation, to ensure a highly skilled and efficient service. We know that 25 per cent of the UK's population have signed up to an organ donation register and that a higher number of people carry the donor card. However, the organ donation task force's report shows that fewer transplants were carried out in 2007 than in 1997. The task force also estimates that there are 5,000 more donors than there are transplants. Why are we talking about introducing presumed consent when we are not coping with the people who are willing to give at the moment? We also need to know why, although more people put their names on the organ donor register in Scotland than in other parts of the UK, we still have the lowest organ donation rates in the European Union.

Margaret Curran mentioned the legal situation, which is crucial. The legal situation regarding non-heart-beating donation is unclear, in part because it differs across the UK. Concerns have been expressed about the extent to which the timing of removal treatment may be influenced by delays resulting from the time that is necessary to complete retrieval. A person can switch status from being a patient to being a potential donor only when care staff have complete confidence in the means by which death is certified. There needs to be a clear legal framework that is consistent throughout the UK and ensures that organ donation is both legally and ethically clarified, for the benefit of both recipients and donors.

The task force's report raises the issue of conflict and seeks to ensure that steps that are taken to facilitate organ donation are clearly lawful. I will use again a quote that I used in George Foulkes's members' business debate on organ donation. It is from Dr Kevin Gunning of Addenbrooke's hospital, who said:

> "If as a doctor you have turned your thoughts to your patient being a donor when they are still living, that is a real conflict".

Putting in place an infrastructure of co-ordinators and resources will ensure that those who wish to donate organs can do so. That—and not imposing on the whole population what is called presumed consent—is the sensible and practical way forward.

15:20

Ross Finnie (West of Scotland) (LD): I am not surprised by the consensus in the chamber on the essential need to increase the number of organ donors in Scotland. That said, there are other issues on which members do not agree.

I particularly agreed with Mary Scanlon's points on the use of language. Those in the chamber who have known me for a long time will know that I am a little bit of a pedant about the ordinary use of the English language, and in that respect I welcome Mary Scanlon's definition of various terms. In fact, this is not a point of pedantry; it affects people's understanding of the issue. If we are seeking to extend public consent, either on a voluntary or an involuntary basis, people must clearly understand what we are trying to do and the basis of such consent.

Like Mary Scanlon, I believe that occasionally a distinction has to be drawn between party and personal positions. My party seeks to promote voluntary consent; however, we would wish to reflect on involuntary consent, which, after all, is a more compulsory measure.

We were very happy to support the Human Tissue (Scotland) Act 2006, which embodied in our law the very important principle of authorisation. That people should have the right during their lifetime to set out their wishes about what happens to their organs after death places a responsibility on the national health service to respect such wishes. Indeed, the General Medical Council's guidance to doctors specifically includes a duty to respect patients' wishes after death. That has fundamentally changed our previous approach to voluntary donation.

I welcome this opportunity, initiated by the cabinet secretary, to debate the organ donation task force report and am pleased that the cabinet secretary herself has unequivocally agreed to implement its extremely important recommendations. I also note her admission that her own position has progressively moved towards what we are calling, by way of shorthand, presumed consent.

However, with regard to the cabinet secretary's wish for a wider consensual debate, I—and my party—have to note her response on 23 July 2007 to a written parliamentary question from Kenneth Gibson, in which she said:

> "It is not clear that changing to a system of opting out would necessarily lead to an improvement in organ donation rates in Scotland. Such a move would need strong support from the public and the health professionals involved"—

a point that she has repeated today—

> "but the extensive consultations carried out in relation to the organ donation and transplantation provisions of the Human Tissue (Scotland) Act 2006 showed strong support for strengthening the present system … That is the approach which is embodied in the Act." —[*Official Report*, *Written Answers*, 23 July 2007; S3W-1787.]

We should also highlight the task force report's crucial findings. As the cabinet secretary rightly made clear—a point repeated by Mary Scanlon and Margaret Curran—its main finding is that we have failed to draw to people's attention the virtues of organ donation because of what the report itself has described as

> "the lack of a structured and systematic approach to organ donation, and to a lesser extent organ transplantation."

Those are crucial findings, which are based on the report's wide and highly instructive drawing of evidence from other countries throughout the world. I share Mary Scanlon's view that some of the report's findings point to the fact that the experience in other countries shows that the implementation of such recommendations has probably had more impact on increasing organ donation than have changes to the law.

I welcome the fact that the cabinet secretary whole-heartedly supports the establishment of a UK-wide organ donation body and wants to ensure that NHS boards identify and champion clinical donation campaigns. I assume that if she approves of that cause, she will give generously to it by providing the boards with the necessary resources. In my view, those are critical issues for the ensuing debate.

I have three points to make. First, the debate is to be consensual—the cabinet secretary has said that it should be—so, although there will be differences, we must seek to get the public to understand the issue. For that to be the case, the debate must be informed, and the embodiment in our law of the concept of authorisation must be understood. There ought also to be a decent interval for us to determine whether that has had an impact.

Secondly, if we are to proceed on the basis of the report's recommendations, it will assist the process of having a properly informed debate to allow a decent and appropriate period for it to take place before we start to come to conclusions about what might be a better system.

Thirdly, there is the role of the task force, which has been tasked not only with looking into the practical issues, but with exploring in greater depth the moral and ethical issues that might be associated with moving to a different system. For the avoidance of doubt, I make it clear that I have some grave reservations about moving to a more compulsory system, but I acknowledge that that is a crucial issue, which deserves to be debated more widely.

I say to the cabinet secretary and all the members who are present that if they are genuinely committed to having an informed debate, we are required to reflect on the Human Tissue (Scotland) Act 2006 and on the measures that are to be implemented, and to await the outcome of the relevant report. Like all members, I am in no doubt about the need for us to tackle more urgently and systematically how we can encourage more organ donation and implement the greater regulation that will be required. We must use the international evidence, which, as the report makes clear, shows that the more systematic approach to which the cabinet secretary is committing us will allow us to radically improve and increase organ donation.

The Deputy Presiding Officer: We move to the open debate.

15:28

Ian McKee (Lothians) (SNP): I am sure that all members welcome the comprehensive review that has been produced by the UK organ donation task force and the Scottish Government's ready acceptance of all its recommendations.

It has already been stressed that Scotland has one of the lowest organ donation rates in Europe, while our need for transplants of organs and tissue is increasing steadily, in line with the growing average age of our population and the increasing incidence of type 2 diabetes. The situation is seen at its starkest when we consider that, although black and ethnic minority communities make up only 8 per cent of the population, members of those communities make up 23 per cent of the UK kidney transplant waiting list and are more likely to refuse permission for a transplant than the population at large. The rest of us cannot be complacent, given that 40 per cent of relatives refuse consent for organ donation, even though surveys show that 90 per cent of people in this country approve of it.

In the course of my professional life I have had the misfortune to come across several people whose lives could have been extended and transformed by an organ transplant, but an organ was not available when they needed it.

The cabinet secretary reminded us how last month Jennifer Foster donated 50 per cent of her liver to her husband, Daniel, in a procedure that—thank heavens—was successful, but which involved a one in 100 chance of her dying as a result of the operation. Many of us would take the same risk and undergo the same pain to save the life of a loved one, but it is inexcusable that that should have been necessary, given that a properly organised organ donation scheme would have greatly increased the chance of a liver being available.

Mike Rumbles: Will the member explain why, when the number on the organ donation register in Scotland has reached the record level of 30 per cent—

The Deputy Presiding Officer: Please speak into your microphone, Mr Rumbles.

Mike Rumbles: Although there is a record number of donors, the number of organ donation operations has reduced. The issue cannot be that we need more people on the register; surely something more fundamental is wrong.

Ian McKee: Mike Rumbles makes a good point, which was adequately covered in the task force's report. If we implement the task force's recommendations, as the cabinet secretary says that she will do, the situation will improve.

The task force claimed that it should be possible to achieve a 50 per cent increase in organ donation in the next five years. If that comes to pass and the task force's recommendations are implemented, many of our problems will be solved. We must do better, and we have the blueprint that will enable us to do better.

No doubt all members and the Presiding Officer will be pleased to learn that I do not intend to go over all the recommendations. However, I mention two aspects of the report that caused me concern. In the preamble to recommendation 5, the task force referred to evidence from the United States of America on the development of

"clinical indicators as a trigger for notification"

to transplant co-ordinators that a potential transplant donor is available. In such an approach the clinicians who look after patients are given a greater role in choosing suitable organ donors. In other words, clinicians spot the people who will die soon and pass the word to the authorities.

I acknowledge the benefit of such a system and the efficiencies that it would bring but I also envisage the pressure that it might place on the professionals who would need to initiate action while caring for a live person, albeit that the person had little hope of recovery. Clinicians might also worry about their relationships with patients' families. Therefore, I welcome the recommendation that there be further consultation with intensive care specialists and other people before we move down that road.

The task force did not make a recommendation, because the matter was outwith its remit, on whether transplant units are staffed and equipped to cope with the increase in work that will inevitably follow the success that we are all working to achieve. The task force reported that some units have been

"stretched … almost to breaking point"

by the modest improvements that have been made. It would be ironic if we greatly increased the flow of available organs only to have to bucket them because we did not have the manpower or the facilities to cope. The need for dedicated transplant teams with more members requires careful planning, especially under the exigencies of the European working time directive, which is slowly tightening its grip. I sincerely hope that the cabinet secretary will take the task force's concerns on board, even though it could make no formal recommendation in that regard.

Presumed consent is a controversial topic. An issue that unites Nicola Sturgeon, the BMA and Lord George Foulkes is worthy of consideration, so rare is such unity. In the past I have had no doubt that presumed consent offers the way forward. However, the proposal is controversial and risks dividing our community, so we must give it careful thought before we proceed down that route. I have read the task force's impressive report and I have witnessed how fragmented our service is. Given the potential for great improvement simply by organising the service a little better and by embarking on a publicity campaign, as the cabinet secretary described, we should hold off from initiating a system of presumed consent until all the task force's recommendations have been implemented. Perhaps take-up could be increased if we included consent forms in passport and driving licence application forms, for example.

Even if the recommendations do not achieve all that is promised for them, they have sensitised us to the need for a continuous supply of organs for transplantation. Perhaps implementing the recommendations will also make any future introduction of presumed consent less controversial than the idea is at present.

The time for talking is now over. Let us get on with implementing the recommendations.

15:35

George Foulkes (Lothians) (Lab): As you know, Presiding Officer, from time to time I have been a little critical of some Scottish National Party ministers. At the outset, I warmly congratulate Nicola Sturgeon and Shona Robison on their continuing commitment—not only today but over a long period of time—to improving donation rates; rates that must improve not only in Scotland but across the whole of the United Kingdom. It was encouraging to hear the cabinet secretary's words today. Indeed, en route to the chamber, I saw the save Dave poster. I look forward to the television advertising campaign.

The stark reality is that every day one person who is waiting for a transplant dies and about 9,000 people continue to wait. That thought is sobering; it should inspire us all not only to embrace the excellent recommendations of the UK task force but to implement them, as the cabinet secretary said that she would do. However, we should not only do that; we should go further. As I argued in the members' business debate that I initiated on the subject, we should implement a system of opting out. Many members in the chamber today took part in the debate. Although I do not want to repeat the arguments for presumed consent, one issue that I took from it—Mary Scanlon and Mike Rumbles raised it today—is the need to be careful about the language that we use to promote the case for more organ donors.

Nobody likes the idea of anyone presuming anything, particularly when the state is involved. The strength of what is best described as an opt-out system is that it will achieve a substantial increase in the number of donors while, at the same time, cementing—institutionalising—a person's right to opt out, for whatever reason. All of us should stop talking about presumption and focus instead on the choices that individuals can make. We should also focus on how the Government can offer enough assurances and safeguards to encourage people to make the right choice in the eyes of the thousands of people who are waiting for a transplant.

Mary Scanlon: I thank the member for his comments on presumed consent, with which I said that I had difficulty. Does he also agree that if we change the language from presumed consent to something else, we would also have to change the use of the words "donor" and "donation"? The act of donation would no longer relate to something that is willingly given, but to something that is willingly taken.

George Foulkes: Yes, we will have to look at the language in that regard, too.

I spoke about assurances and safeguards, which, of course, form part of the debate. Assurances and safeguards will need to be given in respect of the rights of surviving family members, for example. With the last survey showing that 93 per cent of the population support organ donation and 74 per cent support an opt-out system, it is strange that the gap between the number of available organs and the number of people who need a transplant is not narrowing. In fact, the waiting list for organs stands at an all-time high.

As we go forward, I hope in consensus, we should also accept the many sensitivities and concerns that need to be addressed in the debate. I will touch on just one of them, which Ian McKee raised.

As he said, 20 per cent of people who are waiting for transplants in the UK are from ethnic minority backgrounds, but only 1 per cent are donors. That demonstrates the size of the challenge of engaging those communities in the debate on the case for opt-out and donation. The serious practical reality of organ donation is that tissue and blood types need to be matched carefully. That means that the need to increase ethnic minority donors is very urgent. In addition, South Asian and African-Caribbean ethnic groups have a younger population profile, but—sadly—a higher than average tendency for kidney failure. That compounds the problem, and the demand for organs will only get worse if we do not address those issues. I would be interested to hear from the minister how she hopes to engage Scotland's ethnic minority communities in the wider debate.

It is often said by people who argue against opt-out that they do so because of religious concerns. However, two recent studies reported to the House of Lords committee that is dealing with this issue show that religious belief is not a barrier to supporting an opt-out system. Both studies found that when people know their religion's position—all major religions agree on opt-out—they are far more likely to use that information to make a positive decision. If people do not know the position of their religion, they are more likely to say no. It is not the religion that creates the problem but ignorance, and the fact that people do not know the position of their religion on the issue.

Two weeks ago, Dr Anthony Warrens, a consultant at Hammersmith hospital and treasurer of the British Transplantation Society, told the House of Lords committee that each donor, upon their death, gives 56 years of life to others. That is an astonishing and compelling statistic, which means that the positive, all-party approach that we heard in the members' business debate, and that I hope we will hear in today's debate, will move us towards progressing the case for opt-out throughout the country.

15:41

Roseanna Cunningham (Perth) (SNP): I am encouraged by the task force's straightforward assertion that there could be a 50 per cent increase in post mortem organ donation in the United Kingdom—and presumably Scotland—within five years. It flags up current barriers to that—barriers that need to be addressed. I endorse all of Mary Scanlon's examples of the current unfortunate reality that we have to work in. It is a reality that is failing.

We all know the benefits of organ transplants—nobody denies them. A total of 15 million people in the UK are aware enough of those benefits to be on the organ donation register. However, according to the task force, 40 per cent of relatives withhold consent. It is extremely important for us to understand why that happens. I do not have the answer, but it is not enough to say the figure is too high without asking the serious question of how that figure comes about. Is it a trust issue, for example? If it is, we may be better advised to address that than to attempt to sidestep family opposition. Indeed, the task force report suggests that even in the present scenario, various legal and ethical questions do not seem to have been resolved. For example, doctors have two roles: one to argue for the potential donor, and presumably another to argue for the potential donee.

Paragraph 1.23 of the report envisages a change in health board culture,

> "with timely consultation of the NHS Organ Donor Register".

I can envisage "timely" taking on rather a different meaning for the clinicians than for the about-to-be-grieving families. We are already getting into the kind of emotional difficulties that bedevil the issue. I note also in paragraph 1.26 the professional concerns about so-called clinical triggers—referred to by Ian McKee—that would presumably drive the timely consultation of the register. Would it be expected that the family had been notified when those two activities were taking place?

Recommendation 6 says that

> "Donation activity should be monitored"

and rates reported, and that those reports

> "should be part of the assessment of Trusts"—

presumably it means the boards. What happens if a board fails? Does it mean pressure on the board? Where and to whom is the pressure to be transmitted? Those are questions that need to be considered.

We have heard that an increased availability of organs will not necessarily increase the rate of transplants, but I welcome the task force report and hope that there are answers to some of the questions. In the main, I want the recommendations to be implemented. I was particularly interested in what the task force said in paragraph 1.44, on "Honouring the gift of donation". In a sense, that is key to everything, and it raises two issues. The first is that organ donation is a gift, and the only real meaning of the word "gift" is something that is freely given. My right to give that gift cannot be turned into another's right to demand my organs. Secondly, the private nature of donation means that the family of the deceased see no public recognition of that gift—a recognition that would acknowledge their grief as well as the benefit to someone else. I am sure that implementation of the report's recommendation on that would be extremely welcome.

I hope that improvements in the way that we do things will be implemented on the back of the task force's report and allowed to bed in to give us a better sense of the true need to make further changes. Given that most organs become available after road traffic accidents, we must ensure that apparent success rates elsewhere are not, in part, a result of higher accident rates, as has already been suggested.

Regardless of how we might individually feel about presumed consent—or however we want to describe it—can we at least find out why 40 per cent of families currently do not agree to transplants despite the apparent 90-odd per cent approval for organ donation? The fact is that there are very different actual donation rates from country to country, even countries where presumed consent has been implemented. That suggests to me that something else is going on—something more fundamental and cultural—that should be addressed first. The task force's key approach is surely the right one: to change the culture. The soft consent system that is in place in Spain still gives families the final say, and if we introduced it in Scotland but still had 40 per cent of families saying no, we would not be much further forward, so we need to address that issue. Contrary to Ian McKee's point, any issue that results in Mike Rumbles and me being on the same side is worthy of consideration.

On a slightly more cynical point, I must ask what sums of money have been spent on promoting and publicising organ donation over the past 10 or 20 years. I suspect that they are pitifully small in comparison with the benefits that are to be gained. In those circumstances, what is the likelihood that any more—or even as much—would be spent on a consistent and continuing campaign to publicise an opt-out system? It is vanishingly small, I would say. If we do not want to spend much on promoting the benefits, how likely are we to spend on a campaign to, as some describe it, do the opposite?

I welcome the campaign that has been announced today, but we have had few of them over the past 20 years. Nowhere in any of the literature do I read of the campaigns that must, surely, exist in other countries for precisely this purpose. Is the real truth that most people will be presumed to know and that little money is ever spent presenting them with the options at all?

Those are all serious issues that need to be addressed before we take the matter any further.

15:48

Claire Baker (Mid Scotland and Fife) (Lab): I am pleased to take part in the debate and to add to the support that has been expressed for the organ donation task force's recommendations, which could revolutionise the way in which we approach organ donation.

The Parliament has taken action to improve organ donation. The Human Tissue (Scotland) Act 2006—which introduced a new concept of authorisation and made provision for children aged 12 to 15 and adults over 16—combined with promotion of the organ donor register, has led to an increase in donation among all age groups. The previous Executive significantly increased the budget for promotion and, although I acknowledge Roseanna Cunningham's concerns about the size of the budget that is available for such work, I welcome the current Government's continuing commitment to promotion.

A lot of work is also undertaken locally to raise the issue. The *Fife Free Press* is running a campaign to increase the number on the register in Fife and I am happy to recognise its commitment and enthusiasm. However, although the public focus is on the organ donor register and there is a welcome debate about the merits of an opt-out system, the recommendations in the report are vital for improving organ donation. As the report makes clear, much can be done to improve the system of identification and referral, co-ordination and retrieval. The establishment of a national, co-ordinated, clearly defined organisation is key to success in that, and I welcome the commitment that the Government has made today to delivering that recommendation.

The Spanish example is often quoted as an illustration of the merits of an opt-out system, but the opt-out is only part of the story. As members have acknowledged, Spain has an advanced system for dealing with organ identification and retrieval. The lessons learned from that model could result in more people being given the chance of a good quality of life and good health.

I want to highlight a couple of areas of the task force's report. First, it recognises that many of the issues that we need to address

> "should not be particularly difficult, or even that costly to resolve. Overcoming them will require leadership, boldness and willingness to change established practice."

That might be the most challenging aspect. The recommendations need implementation in all areas, and the task force has made bold recommendations about developing a model to ensure comprehensive potential donor identification. It is in that area where we face the greatest challenge, but I have confidence in the task force's recognition of the moral tensions that can exist in very difficult circumstances, and in its acknowledgment that it is proposing a radical change of practice.

The call for a pilot study on introducing clinical indicators is welcome, as support from medical teams is essential for the agenda to move forward. As much as any other recommendation in the report, improving the identification and referral system and removing the barriers that exist in that respect will make the real difference.

The proposals on the co-ordination of donor transplant co-ordinators and organ retrieval teams are critical. Although the UK has highly committed staff, our system is recognised as being unsatisfactory. There must be an increase in the number of DTCs, with one attached to every intensive care unit in Scotland. That expertise in organ donation should be extended to all clinical staff who are likely to be involved in the treatment of potential donors. The report highlights the fact that many critical care staff could go through their training without being involved in the care of a single potential organ donor, and I support its recommendations for mandatory training in the principles of organ donation.

I am interested in the report's recommendation on recognising and honouring individual organ donors, where that is desired and appropriate. When George Foulkes had a members' business debate on presumed consent a few weeks ago, many MSPs spoke of their deep personal gratitude to organ donors who had helped their families. Many donor families find comfort in hearing of the life that their loved one has been able to save. More could be done, if desired, to recognise that.

Speaking in the recent members' business debate, I raised the issue of baby and child donation. I appreciate that it is a highly sensitive area, but it is crucial that it does not get overlooked in the wider debate. I recognise the hard work of my constituent, Anne Fotheringham, in raising the issue of organ donation in Fife and throughout Scotland, and I thank her for bringing the reality of baby and child donation to my attention. The number of children waiting for transplants is not large, but it is significant. Nine children are currently waiting for a transplant in Scotland. Last year, there were 12 recipients of transplants aged under 17. We must do all that we can to help children who need organs to get the chance of a transplant.

The current debate on an opt-out scheme will not do much to improve the chance of a transplant for babies and young children, but an opt-out system, and the debate that accompanies its introduction, could make organ donation a more open subject, which parents will have discussed before being asked for consent. A public debate may provide the opportunity to reflect on the issue, so that parents are more secure in any decision that they might be asked to make.

The implementation of the task force's recommendations, the improved training and education of staff and the resolution of the moral tensions around introducing clinical indicators as a trigger for notification will go a long way towards improving the availability of organs for babies and children. The report recognises the existing barriers, particularly in identification, and I would argue that that issue is sharper when babies and children are involved.

As I said in the members' business debate, I cannot imagine having to make a decision over organ donation for a child. Like other parents, it is not something that I want to think about. However, we cannot exclude consideration of baby and child donation from the discussion.

While the debate around consent attracts leaders and champions, we must acknowledge that cultural change can be achieved only with clear political leadership and commitment. I hope that leadership will be shown by politicians, clinical staff and health boards throughout the UK to deliver the proposed measures to tackle the donor shortage.

15:54

Nanette Milne (North East Scotland) (Con): I am pleased to have been given the opportunity to speak in this debate, which follows on from the previously mentioned and excellent members' business debate that George Foulkes initiated just over a month ago. The contributors to that debate, in well-reasoned and, at times, emotional speeches, highlighted the urgent need for increased organ donation in Scotland, as well as the ethical and moral issues surrounding it.

Cogent arguments were made for and against a system of so-called presumed consent to donation. It was accepted that we would need to have a full and widespread debate before any such system could be introduced. There was also a general acceptance that many more donor organs are urgently required. I hope that today's debate will send the message that our Parliament takes the matter very seriously indeed.

A number of us will know of people whose lives have been saved or transformed by the transplantation of vital organs and of others who sadly have died of end-stage organ disease without transplant or whose chance of transplantation came too late or was unsuccessful. It is well known here that my son's life was saved and transformed by a successful liver transplant. Conversely, a close friend of mine died without regaining consciousness when the donor heart that he received failed to beat properly after transplantation. That was a failure, but at least he died with the hope of regaining the sort of life that he had lost during the many years of failing cardiac output that preceded his long-awaited operation. Another friend lived well into his 80s before dying of a condition that was quite unrelated to the renal disease that had necessitated a kidney transplant more than 20 years before. Many people have been saved thanks to the generosity of all the families who have turned their personal tragedies into the gift of life for other people—thank goodness for them. Many others are not so fortunate. In the calendar year 2006-07, around 100 people died in Scotland alone before they could benefit from transplantation.

As we have heard, there is already a growing gap between the number of available organs and the number of people who need them. That will almost certainly spiral as the population ages, the incidence of kidney failure from type 2 diabetes increases and the hepatitis C that many people contracted in the 1970s and 1980s takes it toll.

There is undoubtedly a need to boost organ donation in this country soon. My family's gratitude to my son's donor's family knows no bounds and we would not hesitate to consent to donation should the situation arise. However, even though it is 16 years since my son's transplant, I am ashamed to say that I have been on the organ donor register for only about 3 years, having signed up electronically at an event that I attended as an MSP. If someone with my motivation took so long to register consent, there must be many more people who are willing to donate their organs but are not yet registered. Repeated surveys have indicated that 90 per cent of people would be willing to donate their organs after death, but only around 25 per cent are currently on the register.

There is a real need in Scotland to promote organ donation and I, for one, warmly welcome the work that the organ donation task force has done to identify barriers to donation and to consider the issues that might have a bearing on donation rates. I also welcome the cabinet secretary's commitment to implementing its recommendations in full. I sincerely hope that those recommendations will increase organ donation rates in Scotland by 50 per cent in five years, which would enable an extra 1,200 transplants a year to take place.

The task force has emphasised the need to improve donor identification and referral and to enhance donor co-ordination and organ retrieval, all of which depend on all parts of the NHS embracing organ donation as a usual, rather than an unusual, event. That might reduce the number of refusals by bereaved relatives when they face the decision whether to give permission for donation.

I had high hopes that the Human Tissue (Scotland) Act 2006 would result in a significantly enhanced rate of donation. Sadly, so far, that does not look likely. I am increasingly coming round to the view that it might yet be necessary to move to a situation where consent is presumed.

If the recommendations of the organ donation task force result in the concept of donation as a usual, rather than an unusual, event, I foresee that there could be a relatively easy transition to a system of presumed consent, like the one adopted by Spain and other countries, which would make donation the default position from which people could opt out during their lifetime if they so wished. The introduction of such a so-called soft system of presumed consent, with proper safeguards to respect the views and sensitivities of relatives, would lead to a shift of emphasis in favour of donation without major changes to current practice. It might well be the best way of respecting the wishes of potential donors and the feelings of their close family.

Many clinical, ethical, legal and cultural issues would have to be considered before an opt-out system of consent could be put in place, but I am increasingly inclined towards the viewpoint of the BMA and others that we need fairly soon to have a genuine, informed public debate about organ donation and the best way to respect the wishes of those who feel that their organs should be used after death to save and enhance the lives of others. I am pleased that the task force is now undertaking detailed consideration of the presumed consent model for donation, and I look forward to its conclusions later this year.

It is no exaggeration to call organ donation for transplantation the gift of life, and until end-stage organ disease can be prevented or research allows the growth of extraneous new organs, it remains the only hope for many, and increasing numbers, of our fellow countrymen and women. We must examine every possible means of increasing the rate of donation so that that hope can be realised for the many other families who, like mine 16 years ago, are faced with the inevitability of a loved one’s vital organ failure.

16:00

John Farquhar Munro (Ross, Skye and Inverness West) (LD): I thank Lord Foulkes for giving us the opportunity to debate the matter again in Parliament—he should be congratulated—and I welcome the opportunity to contribute to this important debate. I also welcome reports on the BBC that ministers are increasingly sympathetic to a change to presumed consent, and the Scottish Government’s latest television advert, which was sent around today. I wish it every success in increasing our pitifully low level of donation.

As some members might know, some six years ago I attempted to introduce a bill to promote the concept of presumed consent to organ donation. I had to abandon the attempt when it became clear that I would have little support from the Labour-Lib Dem Executive, but I think that that is changing slowly—at least, I hope so. I was advised that the Scottish Executive was promoting a bill that would dramatically improve the system and, as a result, increase the number of available organs. I was disappointed, and I continue to be so, as the bill has not improved the situation. Waiting times have not improved, and people die—as we have heard several times—while waiting for healthy organs, which are buried or cremated daily. That seems to be such a great waste and a great shame, when people could make good use of those organs and give them a new lease of life. We have the gift to give them, but we are reluctant to do it.

The gap between the number of people who are waiting for transplants and the number of organs that are available for donation has been steadily increasing over the past decade. There should be swift and decisive action—it needs to happen now. The official register of people who are waiting for organs does not take into account the much larger number of people who never get on to the register, because there is no possibility of their getting an organ for transplant, so they miss out dramatically. Statistics that were published in a BBC report this morning show that although 93 per cent of the population support organ donation—a remarkable amount—only 29 or 30 per cent are on the register. That is a clear indication that we should push towards presumed consent.

However, it is essential that individuals who do not approve of donation are given a comprehensive opportunity, on a national database, to make known their views.

Mike Rumbles: Will the member take an intervention?

John Farquhar Munro: I am just coming to an end—I think Mike Rumbles has a different agenda.

Fortunately, political opinion is now swinging in the direction that the British Medical Association has been promoting for a number of years. It continues to campaign for change to legislation in order to secure organs for transplant. Remarkably, as some members might know, the Prime Minister Gordon Brown has stated that he supports the concept of presumed consent. Things are moving in the right direction.

I do not think that the issue should have political bias—I hope that it does not. Fundamentally, it is a matter for the individual’s conscience at the time when they are required to make the decision, so politics would be well advised to keep clear of the debate. However, I am heartened not only that the Government is warming to presumed consent, but that Labour members have come to support the concept. When I promoted it six years ago, there was little support among Labour members. I am glad to hear and see that that has changed dramatically.

I cannot speak for my fellow Liberal Democrats, but if the Government chooses to proceed with presumed consent, I give an assurance that I will support it.

16:06

Kenneth Gibson (Cunninghame North) (SNP): I am pleased to follow such a positive speech—one with which I wholly agree.

The generosity of donors and their families enables nearly 3,000 people in the UK every year to take on a new lease of life. It is important for those of us who have grown up with transplants to acknowledge that the first successful kidney transplant took place only in 1954 and the first heart transplant in 1967. I have to say that a feeling of panic came over me when I read that. I remember when the first heart transplant took place and my own mortality was exposed to me.

The kidneys, the heart, the liver, the lungs, the pancreas and the small bowel can all be transplanted. Techniques are improving all the time, and soon it might be possible to transplant other parts of the body to help even more people. However, there is a serious shortage of organs and the gap between the number of organs that are donated and the number of people who are waiting for a transplant is increasing.

Transplants are very successful, and the number of people who need transplants will continue to increase due to the ageing population, an increase in kidney failure due to lifestyle changes, and scientific advances, which mean that more people are now able to benefit from transplants.

The number of organs that are available for transplantation has reduced for several reasons. Mr Rumbles and Mary Scanlon mentioned the issue in their interventions. Only a small number of people die in circumstances in which they are able to donate their organs and organs have to be transplanted soon after death. They usually come from people who are certified dead while on a ventilator in a hospital intensive care unit, usually as the result of a brain haemorrhage, a major accident such as a car crash, or a stroke. The number of people—particularly younger people—who die in such circumstances is falling, mainly because of welcome improvements in road safety, medical advances in treatment, and prevention of strokes in younger people. That goes some way towards answering Mike Rumbles's question about why the number of people on the donor register is increasing but there are fewer people from whom to get organs.

Many people have not recorded their wish to donate their organs, or discussed it with their family: too few people have joined the NHS organ donor register and made sure that their families know their wishes. It is important that the Scottish Government's advertising campaign covers that, as I know it will.

It is important to remember that we are talking about real people and real lives. Someone who received a heart transplant said:

> "My transplant gave me my life back. I have seen my children grow up and was able to get back to work. I owe all this to a 19-year-old man who wanted to give someone he had never met the gift of life."

Since 2002, there has been a 16 per cent increase in the number of transplants overall, a 26 per cent increase in the number of kidney transplants, and a 280 per cent increase in the number of non-heart-beating donors. The problem is that demand continues to outstrip supply. Members have not mentioned today the fact that the lack of organs for transplantation has caused some people to go overseas and undergo risky and expensive transplant procedures. I remember reading early last year—in the *Daily Record*, of all papers—about people who go from Scotland to Pakistan and pay people several thousand pounds to get back-street transplants. That obviously puts in danger their lives and those of the people who make the donations.

We have heard that the only reason why there has been a big increase in donations in Spain—particularly in the Basque country, which has the highest donations, at four times the UK rate—is that there are more car crashes and more transplant co-ordinators. I accept that, but one point that I made in the members' business debate on presumed consent that was instigated by Lord Foulkes was on the regression analysis. In the submission that the BMA sent to all members, it gave some details that are important to reflect on:

> "In 2006, Abadie and Gay published a detailed regression analysis of 22 countries over 10 years taking into account a range of determinants that might affect donation rates. They concluded that 'when other determinants of donation rates are accounted for, presumed consent countries have roughly 25-30 per cent higher donation rates than informed consent countries.'"

Those determinants are gross domestic product, per capita health expenditure, religious beliefs, the legislative system and the number of deaths from traffic crashes, cerebral vascular diseases and so on. It is a red herring to suggest that presumed consent does not increase the number of organs that are available for donation.

It is a question of saving people's lives. Government at both UK and Scotland level has to be commended for the work that has been done in setting up the task force. Like many others, I hope that all its recommendations will be taken on board.

The Human Tissue (Scotland) Act 2006 introduced a new concept of authorisation for cadaveric organ donation, which is a phrase that is intended to convey that people have the right to express during their lifetime their wishes about what should happen to their bodies after death, in the expectation that those wishes will be respected. As someone who is strongly in favour of presumed consent, I think that we need measures to ensure that people do not worry that organs will be taken without their wishes being taken into account. However, we have to understand that the problem is acute and will only get worse. We have to bite the bullet at some point, and from chatting to colleagues I know that many members have realised that presumed consent is the way forward.

We have to take on board all the report's recommendations, and we should take the earliest realistic opportunity to move to a system of presumed consent.

16:12

David Whitton (Strathkelvin and Bearsden) (Lab): I had not originally intended to take part in the debate, but the more I thought about it the more I felt that I should. I hope that my reasons will become clear during my speech.

My only experience of organ donation came in 2000 following the death of Parliament's first First Minister, the late Donald Dewar. I had the privilege of being one of his special advisers at the time. As people know, Donald died of a brain haemorrhage after a fall. Those of us who dealt with the incident went through all the emotions that people have to deal with when something terrible happens to someone close to them. One minute they are in casualty, consultants are treating the patient, and they are hoping that things will improve, but the next minute they are dealing with the terrible information that the patient's condition will not improve and, indeed, is terminal.

A further complication in Donald's case was that his family—his daughter Marion and son Ian—did not live in Scotland. Arrangements were made for them to get to their father's bedside as quickly as possible. As members would expect, the medical staff who were treating him gave Donald the best possible care, but in truth they were keeping him alive until his family could arrive to say their goodbyes and give permission for the artificial respirator to be turned off.

It was at that point that Donald's children were asked whether they would consider organ donation. I do not know whether Donald had ever expressed any views to his family about organ donation, but I know that they took a brave and sensitive decision that they believed that their dad would have wanted his organs to be used by someone in need. They gave permission.

That made me realise, as someone who has carried an organ donor card for some time, that everything that can be done should be done to make such difficult decisions as easy as possible for the loved ones who are overtaken by such tragedies. When we hear that last year 1,000 people died in the UK—around 100 in Scotland—waiting for a transplant, it is clear that a different approach should be seriously considered.

Before coming into the chamber, I took the opportunity to watch the new advert, which is well done. I hope that it will send a strong message and achieve the desired result—an increase in the number of people who sign up to be organ donors.

Dr McKee's suggestion of issuing applications for organ donor cards with driving licences and passports is excellent, especially for driving licence applications by people who are aged between 17 and 21.

It may surprise John Farquhar Munro—although I was not an MSP when he first raised the issue—that I am in favour of the presumed consent model. As we have heard, it works in 21 other countries, whose opt-out systems allow those who do not want to donate to make that choice clear.

We have heard that the organ donation task force has noted that the UK has one of the lowest organ donation rates in Europe and, as the cabinet secretary said, that Scotland's rate is lower than that for the rest of the UK. I have mentioned the consequences of that for people on the transplant waiting list. The task force's report said that a UK-wide organ donation organisation should be established. I support that, so I was pleased to hear that the cabinet secretary has signed the Scottish Government up to that, and that the other devolved Administrations in Wales and Northern Ireland, along with the UK Government, believe that a UK-wide solution is essential.

As we have heard, it is also essential to recruit more transplant co-ordinators, who work with hospitals and who guide and support bereaved families through the donation process. In Donald Dewar's case, decision making was delayed, as the family had to wait for the transplant co-ordinator to arrive from another hospital. Such decisions are delicate and sensitive and need careful handling. Unnecessary delay should be eliminated if at all possible.

We have heard that the task force believes that, if all its recommendations are implemented, organ donation in the UK could increase by 50 per cent within five years. That would mean an additional 1,200 transplants and an additional 1,200 people who would be helped to have a better quality of life.

However, the issue is sensitive. Many people have ethical, cultural or religious objections to the adoption of a presumed consent model but, as several speakers have said, the evidence from countries that have presumed consent models is that only one in 50 people opts out. The British Medical Association supports the system of soft presumed consent, under which organs would be removed unless the individual registered an objection during his or her lifetime, or it was clear from relatives that the individual had expressed an objection that had not been registered, or it was apparent that to proceed would cause major distress to the individual's relatives. That system should overcome some of the misgivings that Mary Scanlon feels. With such safeguards in place, the public would be moved to support a change to presumed consent.

It is ironic that two of Donald's closest friends—Murray Elder and Sam Galbraith, who is a former health minister—are still alive today thanks to organ transplants that took place many years ago. I am sure that neither of them will thank me for saying that those life-saving operations enabled both of them to go on and make their significant contributions to public life.

I do not know where Donald's organs went—nor should I—but I hope that they helped others to go on and enjoy a better quality of life. As we have heard, at the end of March last year, 7,000 patients were waiting for transplants. The lucky ones were the 3,000-odd who had a transplant in the past year thanks to the generosity of 1,495 donors and their families.

When faced with the kind of decision that the Dewar family had to make, 40 per cent opt for the default position of not donating. Moving to a soft presumed consent model would remove the dilemma of having to make that decision at a time of stress for any family. It would increase the number of organs that are available for transplant and would give the gift of life to thousands who are on transplant waiting lists.

I believe—I am presuming consent from the late Donald Dewar—that if he were still alive, he would believe that changing to a new system for organ donation consent was the right thing to do.

16:19

Michael Matheson (Falkirk West) (SNP): As other members do, I very much welcome the organ donation task force's report. I am particularly pleased that the Scottish Government has agreed to implement all 14 of its recommendations and to work in partnership with the London, Welsh and Northern Ireland Governments to take it forward nationally. Like other members, I was interested to note the suggestion that if all 14 of the task force's recommendations were implemented effectively, that could result in a 50 per cent increase in the number of donations over the next five years. I very much hope that that is the case.

However, when the report was published, given the gathering momentum around the presumed consent debate, I was conscious that there was a danger that some people may argue that we should not implement the report's recommendations because presumed consent may be a much more effective way of dealing with the issue. I am reassured by the minister's statement that presumed consent will not be a substitute for the implementation of the task force's recommendations.

That said, the task force's report raises interesting questions about presumed consent. If the implementation of all 14 recommendations was successful and increased the number of organ donations by 50 per cent, it would be reasonable to ask whether there was still a need to have a debate on presumed consent or to consider such a model. Should we wait for five years, to see whether implementation of the recommendations delivers that possible suggested increase? I do not think that we should. We should move forward now because five years is too long to wait, especially for people who are on the transplant waiting lists. Nevertheless, I believe that the Government should address such questions in the debate on presumed consent.

I have no idea what being on the transplant waiting list must be like, but I have witnessed at close hand the impact that it can have on the lives of people on kidney dialysis while they wait for transplants—the impacts on personal life, work life, leisure life and life in general. At the Falkirk and district royal infirmary, in my constituency, we have an excellent renal dialysis unit that was opened several years ago and was recently extended—the cabinet secretary came to the opening of the extension. That unit has markedly improved the quality of life of my constituents who are on renal dialysis, as they can now go to their local hospital instead of having to travel to Glasgow or Edinburgh.

In particular, I highlight the plight of families with children who have to go to hospital for renal dialysis. When specialist forms of dialysis are required, children are having to travel to Yorkhill hospital in Glasgow, where that service is provided, irrespective of where in the country they live. For people in my constituency, that may not be a big burden, although it still means that such children must leave school regularly throughout the week to travel to Glasgow for dialysis. It is a bigger burden for those who have to travel from Inverness, Shetland or wherever. I know of families that have had to uproot themselves and relocate to Glasgow in order to access the service. The best thing that we could do for those children would be to increase the number of organ donations, in order to allow them to come off dialysis at some point in the future.

We need to consider providing more support for families and children who are in that situation. A small charitable organisation in my constituency—Kidney Kids Scotland—provides financial and practical support to such children and their families. It does a fantastic job, and the Government should consider what further support it could give to families in that difficult situation.

Like Mary Scanlon, Mike Rumbles and Ross Finnie, I have concerns around the term “presumed consent”. In my view, consent is an active process, not a passive one, so there is a debate to be had around the terminology. When the debate first began, I opposed presumed consent largely on the basis of the selfish view that I, not the state, will determine what happens to my organs. However, I now believe that we should move towards a presumed consent model in Scotland.

I said that I originally came to the debate thinking that presumed consent was not the way to go but I have changed my view for largely selfish reasons. If I, a member of my family or anyone else, depended upon having a transplant, then I hope and pray that it would happen for them sooner rather than later. The statistics tell the story that, for many people, it is happening too late. If a presumed consent model would help to save lives, I believe that we should do it sooner rather than later.

16:25

Mike Rumbles (West Aberdeenshire and Kincardine) (LD): This has been another good debate on organ donation and transplants.

Nicola Sturgeon said that the debate offered an initial opportunity to express our views on the task force’s recommendations, and she signalled the Government’s willingness to implement all of them. There is agreement around the chamber that we should accept the recommendations in full and that, if we do, there will be a 50 per cent increase in transplant rates. It must be the right thing to do.

The minister also said that presumed consent is not a substitute for the task force’s recommendations. Margaret Curran said that the public is with us on the need to increase organ donations, but she also acknowledged the need for a proper debate around presumed consent. During my intervention on her speech, I pointed out that we need to use different terminology if we are to have a properly informed debate.

Mary Scanlon did not give the Conservative party’s position, but instead confirmed her personal view—which I acknowledge and support—that presumed consent is not consent at all. She pointed out the fact that Parliament has been quite clear that consent cannot be presumed in passing legislation that has come before it on sex, for example.

Organ donation rates have risen in Spain because it has a network of transplant co-ordinators, not because it has a system of so-called presumed consent. That is exactly what the Health Committee discovered during the passing of the Human Tissue (Scotland) Act 2006 in the previous parliamentary session; the evidence is there for all to see.

Ross Finnie outlined the fact that the 2006 act gave legal authority to the organ donor card and register for the first time. The wishes of the deceased now carry legal force, and I do not want to lose that. Ross Finnie also challenged the terminology that we used and talked about the shorthand use of the term “presumed consent”. We are really talking about voluntary donation, or indeed non-voluntary, or even compulsory donation. It is important to use the language properly if we are to have an informed debate. George Foulkes agreed that language is important and argued that we should stop talking about presumed consent. During her intervention, Mary Scanlon pointed out that a donation is a gift. If something is taken without consent being given, it is not a donation.

George Foulkes wants to use opting out, and that is fine by me, as long as we do not assume that people who neither opt in nor opt out are assumed to have opted in.

I turn to the contribution of my good friend, John Farquhar Munro and I pay tribute to his actions on the issue during the past six years. He was right to bring the issue up, but he was also right when he said that he did not speak for his Liberal Democrat colleagues. He does not seem to accept that the problem of the poor number of organ transplants will not be addressed by pursuing so-called presumed consent. No one has really been able to address the point that, if we have the highest-ever number of people on the organ donor register, but a falling number of transplants in Scotland, logic dictates that the solution cannot be to increase the number of people who are on the register—much as we would like that to happen. The solution lies before us today: implementation of the recommendations of the organ donor task force report.

George Foulkes: Mike Rumbles said that it is understandable that John Farquhar Munro did not speak for the Liberal Democrats. Mary Scanlon said that the Conservatives, like the Labour Party, will be given a free vote on the issue because that is sensible. I had presumed—if members will excuse the word—that the Liberals were going to have a free vote as well. Is that the case?

Mike Rumbles: As my colleague Ross Finnie made absolutely clear, we will reflect on that very issue because the matter is of such importance.

I am sure that all members are equally committed to increasing the number of organ transplants, so there is no question about the outcome that we all desire. Today, I have heard no one criticise any of the task force's recommendations. If we are successful in implementing the measures, we will increase transplants by 50 per cent. That must be the way to go.

Some members—probably most of those who have contributed to today's debate—have called for us to go further by adopting so-called presumed consent, but many of us believe that that would be a counterproductive measure. That is an important point. Personally, I do not believe that presumed consent would be successful.

For goodness' sake, we should get on with implementing the task force's proposals, as Ian McKee said in his heartening speech. The recommendations will work. We should put the issue of presumed consent—which everyone accepts is divisive—to one side and implement the 14 recommendations, on which the minister has the support of members on all sides of the chamber.

16:31

Jackson Carlaw (West of Scotland) (Con): In a compelling and considered debate, we have heard many admirable speeches from members in all parts of the chamber.

In particular, I note the remarks that were made by the cabinet secretary, by Margaret Curran—I mention her unreservedly on this occasion—and by Ross Finnie. I was also much struck by David Whitton's speech. All those speeches were in addition to those that were made during George Foulkes's members' business debate in January, which was also on the issue of presumed consent. In passing, I might say that things came to a pretty pass today when John Farquhar Munro gave the impression that Lord Foulkes, as a Government minister, initiated this afternoon's debate.

Having reread the account of the previous debate ahead of today's, I should also state that many fine contributions on this as yet unresolved business were made on that occasion by, among others, Claire Baker, Nanette Milne, Cathie Craigie, Kenneth Gibson and Malcolm Chisholm. Several of them also spoke this afternoon. They all, in one way or another, supported a move towards presumed consent. However, the speakers in the previous debate also included my colleague Mary Scanlon and Roseanna Cunningham, who were more sceptical and restated their reservations this afternoon.

The cabinet secretary stated ahead of the debate that she hoped that the issues surrounding presumed consent would be aired today. I will return to those issues shortly, but it seems important first to acknowledge that the discussion on improving Scotland's rate of organ donation has been seamless. All parties, when in government, have tested public temperature and made progress.

As many members have said, the report on which the Government will act is comprehensive. Crucially, if its 14 practical recommendations are acted on as a whole, they have the potential—according to the task force's chair, Mrs Elisabeth Buggins—to realise a 50 per cent increase in organ donation in the UK within five years.

In the previous debate on presumed consent and again this afternoon, Mike Rumbles alluded to the recommendations in their entirety when he made the point that increasing the number of registered donors will not of itself make a manifest difference if the systems for retrieval and proper co-ordination are not vastly improved. That point could not be more emphatically put than it is in the report.

Much more ought to be achievable on a voluntary basis if it is indeed true that, in opinion polls, some 90 per cent of respondents say that they would be willing donors but only 29 per cent of respondents in Scotland go on to register. Given people's apparent willingness to be donors, surely a more overt soliciting of registration would now be appropriate. I fully support Nanette Milne's comments on that.

I note the new media campaign that is under way and do not doubt that it is well researched. We know that reactions to such campaigns must always be subjective but—without wishing to be in any way churlish—I must say that, unlike George Foulkes and David Whitton, I do not much like what I have seen of it so far. While driving to an engagement last Friday, I very nearly collided with one of the new 48-sheet billboard poster sites that feature the campaign. Setting aside the possibility that that was the intention, I wondered whether it was appropriate to confront motorists at a busy traffic junction with a "Live or die" challenge. I would prefer an uplifting donor campaign that focuses on the life-enhancing experience of those who have benefited from the gift of organ donation rather than on the ghastly choice that confronts those who need to make the decision at the critical moment. I fear that the campaign may turn some people off, rather than on, when they consider registration.

I prepared my remarks before I saw the video, which I saw a few moments ago. To me, it seemed like a bleak episode of "Torchwood"—a programme that I normally enjoy—or like a live-or-let-die phone-in vote in a reality show. It did not suit my taste. However, I hope to be proved wrong and look forward to experiencing all the different elements of the campaign during the month ahead.

I return to the fact that 93 per cent of the public indicate that they are willing to register. Like others, I wonder whether an invitation to register might accompany key pieces of national domestic mailing, such as council tax notices, electoral roll registration forms and student examination results. I understand that people are already approached by the Driver and Vehicle Licensing Agency in that way.

Ian McKee proposed that the material be included with passport applications. Offence ought not to be taken if the opinion polls are right and people are looking for ways to access registration on a sustainable basis and not just on the back of one burst of media activity. Although, like the cabinet secretary, I am sympathetic to a move towards presumed consent, such a move must follow and not precede our being able to say—and our being convinced when we say it—that every possible effort has been made to improve registration by other means. We cannot say that yet.

The measures that I have described are vital because I fear that, when examined in detail, presumed consent is less attractive to people than their initial reaction suggests. If we proceed with it, we must be confident that the obstacles can be overcome. I agree that any debate on presumed consent must be informed and extended. In view of the recent and seemingly inexhaustible examples of massive losses of computer data, what confidence would the public have in politicians who tried to assure them that their wish to opt out of presumed consent had been properly recorded and would be respected? Members should consider on whom the public's wrath would turn if examples of organs being harvested from those who had opted out became part of a future media storm—and the potential of such examples to undermine confidence in the whole organ donation system.

Mindful of the personal testimonies that we have heard from the public and from colleagues, we must do all that we can to increase the total number of voluntary registered donors. However, as I said at the start of my speech and as many other members have noted, that is just one aspect of what needs to be done. Co-ordination and retrieval of organs on a UK basis will be the key to our future success.

In the previous debate on organ donation, Malcolm Chisholm pointed out that a simple comparison with Spain is not a solution because, in Spain, which has one of Europe's highest road death rates, more suitable registered donors become available. That is not a development that we are seeking to encourage. However, there are significant operational lessons to be learned from Spain and other countries, which form part of the package of recommendations that the organ donation task force report urges on us. Conservative members will support the Scottish Government as it acts on those recommendations. We hope that it will ensure, during this parliamentary session, that the problems that need to be overcome to implement the report in its entirety are addressed urgently. The prize will be the many lives that the authors of the report believe will be saved or transformed as a result.

16:37

Dr Richard Simpson (Mid Scotland and Fife) (Lab): It is rare for there to be such unanimity across the chamber. It is clear that there is unanimity on the report of the UK organ donation task force. There is also a fair degree of unanimity on the problem that we face—the fact that the number of transplants in Scotland is so low and the fact that the level of organ donation in the UK is one third of that in Spain. Several members have made that point.

Mike Rumbles alluded to the fact that, despite the Parliament's efforts, the number of donations has not gone up, and he sought an explanation for that. I was the reporter to the former Health and Community Care Committee when it first considered organ donation. One reason the number of donations has not increased is that, fortunately, the number of brain-stem deaths is being reduced because of our ability to tackle cerebral haemorrhage and because of a reduction in the number of road traffic deaths. There are good reasons for the reduction in the number of donations, but it has not been compensated for by increases in the number of non-beating-heart donations, living relative donations and non-relative donations.

The supply of donated organs is not sufficient, but demand is increasing. Kenneth Gibson referred to the fact that many more organs can now be transplanted. Demand is increasing not just as a result of innate need, but because the opportunities that technology provides are increasing. For example, when I began my professional career, individuals with cystic fibrosis had minimal prospects of surviving into adulthood. Now they do, but in many cases they will not survive for the length of time that I have enjoyed without the opportunity for transplant.

Ian McKee, George Foulkes and others referred to the problem in ethnic minority groups, which is a serious issue that must be addressed in any publicity that we produce on registration and on management. Margaret Curran and many other members referred to the sensitivity that we need to show when we deal with the issue. For example, if we have an opt-out system, the register needs to be robust, as Jackson Carlaw said.

Margaret Curran also referred to training, which is fundamental. It is therefore disappointing that, despite the recommendations of the Health and Community Care Committee report, many doctors are still inadequately trained and many other staff are not fully aware of the need to look at organ donation. We need to tackle that.

Ross Finnie rightly talked about the need for a systematic approach. The issue has to be tackled on an organisational basis that manages every aspect and records where we are failing, where things are not going right and what happens when donation does not occur. There will need to be proper recording by the Government and by trusts and health boards. There will also have to be leadership training in this area if we are to move things along appropriately.

Many members have referred to the fact that, in Scotland and in this Parliament, we have made some efforts. As the cabinet secretary indicated, the Scottish transplant co-ordinators are already centrally funded. She also suggested that, to improve performance, we should perhaps consider having a chief executive letter or a health efficiency access and treatment target. I think that that is correct. I also suggest that we do not yet need to move to financial incentives—that is too sensitive an area—but we need to remove the financial disincentive that trusts, hospitals and boards face when they undertake organ donation. That needs to be categorised and the money must be provided centrally as part of the new organisation.

The process of positive registration being referred to as a gift or a donation is important. Many countries that have the system that is known as presumed consent still retain opt-in and opt-out registers. The recognition and registration of the gift is important.

If someone opts in, the need for the family to make the decision is removed because the legal statement of the deceased is clear and has force in law.

Mike Rumbles: Will the member give way?

Dr Simpson: No, I want to complete this point.

The point is that we still ask the family. That is another reason why the numbers are not going up as much as we would like them to. There are some families that do not accept the wishes of the deceased, which means that although the statement has legal force, organ donation does not occur.

Advertising is important. Claire Baker paid tribute to the *Fife Free Press*. I join her in that. The *Alloa and Hillfoots Advertiser* is also running a campaign, as are other local papers. That is to be welcomed. Backed by a national campaign, that might help to improve the level of registration.

Members have referred to circumstances in which registration for organ donation is appropriate. Already, people are given the opportunity to do so when they register with a GP. They should also be able to do so when they register to vote and, as David Whitton said, when they apply for passports and driving licences. Further, when people get their council tax bill, they should get a note that says, “Your council tax is frozen, but we would like you to register for organ donation.”

As Nanette Milne said, online registration is also important. She also pointed out that the fact that she took so long to register—even though she undoubtedly had a strong motivation to do so—shows that we have a problem with our ability to acquiesce to the wishes of the population with regard to organ donation. According to polls, 93 per cent of people back the concept of organ donation. The time has come to make a move.

We need to be clear about the legislation on non-beating hearts, as Mary Scanlon said. We also need to ensure that we avoid any conflict of interest between the physicians and clinicians who are trying to get a patient back to health and the teams that are involved in the organ transplant process. There needs to be a clear awareness of the potential conflicts of interest.

The final issue is the vexed one of presumed consent. I use that term only because it is used across 21 countries in Europe. Are they wrong and we are right? Have they had problems, major difficulties and concerns? No. Is the evidence that presumed consent increases the number of donations clear? Yes.

There have been parallel studies in Belgium; one area had an opt-in system and the other had a system of presumed consent. There were before-and-after studies on the introduction of presumed consent. As some members have mentioned, a meta-analysis—a compilation of research—has been done that demonstrates clearly that presumed consent increases the number of donations by about six per million. If presumed consent had the same effect in Scotland, we would not just double, but would increase by 150 per cent, the number of donations.

The time has come for us to do what David Whitton suggested—we need to make organ donation easy for the families. That is crucial to the debate. It is vital that we respect families' views, but we need to make the process easy for them. If someone who has just been bereaved is asked, "What do you think the deceased would have wanted?", they will say, "I don't know," with the result that, as has been said, they will opt for the default position, which is not to donate.

One of the clearest bits of evidence on the issue was provided by a research project that interviewed families a year after they had refused to give permission for donation. It found that 40 per cent of those families regretted their decision. Families are being put in the unenviable position of being asked whether they agree to organ donation when they should be being asked whether they object to it. That might not seem to be a large shift, but it is psychologically crucial to how families manage the situation.

Mike Rumbles: I agree that, "Do you object?" is a much better question to ask families, but Richard Simpson should remember that there has already been a vast increase in the number of people on the organ donation register—30 per cent of people are on it. I would have no problem with the proposal to have an opt-out register if there was also an opt-in register, but there should not be an assumption that people who have neither opted in nor opted out have opted in.

Dr Simpson: The problem with a soft system is that with quite a number of people who have opted in, their families have nevertheless said no. We must respect families' wishes, so we need to change the culture, as a number of members have said. Ross Finnie used the word "authorisation", which is a good term, but it does not take us a great deal further.

We all agree that the task force recommendations must be implemented in a powerful, organised and systematic way that ensures that chief executives focus on organ donation and that we maximise the number of organs that are donated. We must encourage registration. George Foulkes said that every donor gives 56 years of life to others. The Parliament needs to send out the message that, in the correct circumstances, organ donation must become usual, and we must make it easy for our citizens to donate their organs.

16:48

The Minister for Public Health (Shona Robison): The debate has shown the Parliament at its best. Members have dealt with a sensitive and difficult issue constructively and on a cross-party basis. Of course, organ donation is not a party political issue, as many members have pointed out. The position that people take on it depends on their personal views and beliefs. I confirm that, for that reason, members of the SNP will have a free vote on the matter. We took that into account when we had the debate designated as a subject debate, and I think that our decision has played a part in stimulating high-quality speeches, because—rightly—people have felt free to express their views.

As the cabinet secretary said in her opening speech, we had three main aims in organising the debate: to underline our commitment to increase the organ donation rate in Scotland by implementing the recommendations of the task force's first report; to draw attention to today's launch of the most high-profile advertising and publicity campaign on the subject that has ever been undertaken in Scotland—I hope that Jackson Carlaw will change his view on that as the campaign develops; and to give members an opportunity to debate the risks and benefits of moving to an opt-out system.

Members have raised a number of points to which I wish to respond. Mary Scanlon mentioned the need to clarify the legal position on non-heart-beating donation. As she knows, when a person has given authorisation for organ donation there is no conflict; the 2006 act provides that such express wishes will be fulfilled. We will develop advice for the Scottish Intensive Care Society on the legal position regarding non-heart-beating donation when no wishes have been expressed. I hope that that addresses some of Mary Scanlon's concerns.

Mary Scanlon and Ian McKee talked about the increased prevalence of diabetes and said that we must tackle it, to reduce the need for kidney transplants. I absolutely agree, which is why we are doing work on type 2 diabetes in particular. Some of our health improvement measures are geared towards that issue.

George Foulkes made an important point about language. I prefer to talk about an opt-out system, which better reflects what we mean. We need to be in a position in which we do not presume anything, as George Foulkes made clear. He also made an important point about the need for safeguards in an opt-out system, to guarantee rights. He talked about the need to increase minority ethnic donors. Ian McKee and, I think, Richard Simpson made the same point. We acknowledge that important issue and we will ask the Scottish transplant group to consider how we can ensure that there is an increase in donations from ethnic minority communities in Scotland.

Mary Scanlon: In paragraph 4.13 of its report, the task force said:

> “there is a lack of legal clarity around how, if at all, a patient close to death can be treated differently in order to facilitate donation, particularly if their wishes to donate are not expressly recorded.”

Will the minister work with members of Parliament at Westminster to ensure that the same legal definition will apply consistently throughout the UK?

Shona Robison: As well as working with the Scottish Intensive Care Society, we will of course talk to colleagues at Westminster about the matter.

Claire Baker talked about the need to keep in mind baby and child donation, which is an important point. She will be aware that the 2006 act allows children under 12 to donate organs after death. Of course, in such cases authorisation must be given by the person who has parental rights and responsibilities.

I support Michael Matheson’s comments about the important work that Kidney Kids Scotland does. We expect our services to support children who undergo kidney dialysis, and their families, on travel and accommodation issues. I hope that that provides some reassurance.

An opt-out system is the next phase and was the key issue that we considered in the debate. As I said in reply to the members’ business debate on organ donation that George Foulkes secured, I am sympathetic to such an approach, but, like many members, I acknowledge the concerns that arise.

Mike Rumbles said that we should not take away choice. We do not want to take away choice; we want to change how choice is exercised. The soft opt-out system would still allow families the final say. Richard Simpson suggested that there might be an issue in that regard. I want families always to have the final say, even when a person expressly wished to be a donor, because to expect health staff to push forward with organ donation against a family’s wishes would be to put staff in an invidious position—we would not go there.

Mike Rumbles: I am at one with the minister on the issue. If we look at the law as it stands at the moment, it is all about authorisation. People can pre-authorise with the organ donor register or their families can authorise donation. If we stick to the position that the minister has outlined, I will have no problem.

Shona Robison: Yes, but the issue is one of culture change; the question that the family is asked needs to be changed. We need to ask, “Do you object?” Making that change would deal with the clear concern that members across the chamber have expressed. Families find the point at which the question is put the most difficult of all. That is the underlying reason for the high refusal rate. I will say a bit more about that in a minute.

The questions that we need to ask ourselves have been well rehearsed. Would a move to opt-out deal completely with the shortage of donor organs? Can we move to that position without alienating public support for transplantation or undermining the very high degree of support that it currently enjoys? Before we move forward, we must have the answers to those questions.

Of course, those questions address the sorts of issues that the organ donation task force is looking at across the UK. It is arranging events in several parts of the country, including one in Edinburgh at some point in May. We want to ensure that as many people as possible get the chance to attend the event. The task force will also look at other ways of allowing people to make their views known. The cabinet secretary will discuss those issues with the chair of the task force next month.

Margaret Curran, Roseanna Cunningham and other members mentioned the crucial role of relatives. Everyone agrees that, irrespective of whether people opt in or opt out, the process must be made as easy as possible for relatives. Without their co-operation, donation cannot take place because all the information that health professionals need, to be sure that no harm will come to potential recipients, will not be made available. As many members have said, relative refusal rates are over 40 per cent. Whichever system we adopt in future, reducing that refusal rate will be a key factor in its success.

Ross Finnie: Will the minister clarify a matter of extreme delicacy and difficulty to which both she and Richard Simpson have referred? As it presently stands, the law on establishing authorisation does not allow people to counter at a subsequent time the wishes of the person who gave authorisation for donation. Nothing that the minister said was very different from that, but I think she hinted now and again that she wished to override it.

Shona Robison: I accept that that is the legal position, but the reality is that health professionals who work at the front line will never override the wishes of the family. That is just not going to happen. We should not expect health professionals to be put into such a position.

When relatives know that their loved one wanted to donate, they usually consider it their duty to ensure that those wishes are fulfilled. The key factor is therefore to ensure that people who want to donate their organs after death tell their loved ones what their wishes are. It may not be a very easy subject to bring up in conversation, but it is much harder for the family to have to decide, at the very moment that the loved one is no longer able to tell them directly, what a loved one's wishes may have been. Many members have mentioned that, and it is why our advertising and publicity campaign stresses that people should put their name on the organ donor register, given that it is recognised as the way forward at the moment. Doing that also encourages people to tell their nearest relatives what their wishes are. Not only does that count as authorisation under the act, but families are in no doubt about what they are to do should the circumstances arise. That enables them to take the initiative, which makes the whole process much easier for everyone concerned.

We are committed to implementing, for Scotland and with the other countries in the UK, the recommendations in the task force's first report. The task force believes that doing so will make a major difference in as short a time as a year or 18 months. We very much hope that that belief is fulfilled and we are determined that Scotland should play its part in making it happen. We look forward to engaging the Parliament in the process as we go forward.

Business Motions

17:00

The Presiding Officer (Alex Fergusson): The next item of business is consideration of business motions S3M-1484, S3M-1487 and S3M-1485, in the name of Bruce Crawford, on behalf of the Parliamentary Bureau.

Motions moved,

That the Parliament agrees the following programme of business—

Wednesday 12 March 2008

2.00 pm	Time for Reflection
followed by	Parliamentary Bureau Motions
followed by	Scottish Government Debate: Independent Scrutiny
followed by	Debate on the Home Detention Curfew Licence (Prescribed Standard Conditions) (Scotland) Order 2008 (SSI 2008/36) and the draft Home Detention Curfew Licence (Amendment of Specified Days) (Scotland) Order 2008
followed by	Legislative Consent Motion: Pensions Bill – UK Legislation
followed by	Business Motion
followed by	Parliamentary Bureau Motions
5.00 pm	Decision Time
followed by	Members' Business

Thursday 13 March 2008

9.15 am	Parliamentary Bureau Motions
followed by	Scottish Liberal Democrats Business
11.40 am	General Question Time
12 noon	First Minister's Question Time
2.15 pm	Themed Question Time Education and Lifelong Learning; Europe, External Affairs and Culture
2.55 pm	Scottish Government Debate: National Parks
followed by	Parliamentary Bureau Motions
5.00 pm	Decision Time
followed by	Members' Business

Wednesday 19 March 2008

2.30 pm	Time for Reflection
followed by	Parliamentary Bureau Motions
followed by	Scottish Government Business
followed by	Business Motion
followed by	Parliamentary Bureau Motions
5.00 pm	Decision Time
followed by	Members' Business

Thursday 20 March 2008

9.15 am	Parliamentary Bureau Motions
followed by	Scottish Labour Party Business
11.40 am	General Question Time
12 noon	First Minister's Question Time
2.15 pm	Themed Question Time Health and Wellbeing
2.55 pm	Scottish Government Business
followed by	Parliamentary Bureau Motions
5.00 pm	Decision Time
followed by	Members' Business.

That the Parliament agrees that for the purposes of allowing up to 60 minutes to debate motion S3M-1486 on Wednesday 12 March 2008, the second and third sentences of Rule 10.4.4 of Standing Orders be suspended.

That the Parliament agrees that consideration of the Glasgow Commonwealth Games Bill at Stage 2 be completed by 28 March 2008.—[*Bruce Crawford*.]

Motions agreed to.

Decision Time

17:01

The Presiding Officer (Alex Fergusson): There are no questions to be put as a result of today's business.

Wheelchair Users (Human Rights)

The Deputy Presiding Officer (Alasdair Morgan): The final item of business is a members' business debate on motion S3M-1028, in the name of Trish Godman, on Scottish wheelchair users and their human rights. The debate will be concluded without any question being put.

Motion debated,

That the Parliament commends *The Herald* for alerting the public to the ofttimes severe distress and denial of human rights inflicted upon Scottish wheelchair users by the insensitive, penny-pinching and uncaring approach by those in authority to their legitimate expectations and requirements anent the design of wheelchairs and their manufacture, adaptability to individual needs and maintenance programmes; notes that the charity, Quarriers, in West Renfrewshire, has stated that, of 105 wheelchair users recently interviewed, over 50 said that their wheelchairs were unfit for purpose and is firmly of the view that this state of affairs is unacceptable in modern Scotland; believes that our wheelchair users should be provided with wheelchairs that equal the best provided elsewhere in Europe; considers that the recommendations contained in the document *Moving Forward: Review of NHS Wheelchair and Seating Services in Scotland* should be implemented forthwith, and reminds all such strategic decision-makers involved in these matters that the goal should be to offer the best services attainable so that Scottish wheelchair users can lead tolerable lives in their communities.

17:02

Trish Godman (West Renfrewshire) (Lab): At one point in a training session, I had to spend half a day in a wheelchair. It was an experience that I will not forget. I remember not so much what I could access as what I could not access. With the new Disability Discrimination Act 2005, there have been improvements, but they are not enough.

I believe that Governments can make changes, which is why I lodged the motion for debate. Many wheelchairs that are being used or reused in Scotland today were designed 50 years ago. It is no surprise, then, that in a recent survey of 105 wheelchair users, 50 wheelchairs were found to be not fit for purpose. Those are figures, but what do they mean for the people of all ages who are using those chairs, such as young men and women returning from Iraq and Afghanistan, people who have suffered a stroke or been injured in some way, and people who have been born with needs that require them to use a wheelchair?

One of my constituents had an attendant-controlled chair removed because it was broken, but he was given a manual chair, which was not suitable for his needs. As a result, he was unable to leave the house or to participate in social activities, as he had been used to. Another constituent's attendant-controlled chair broke down. She was also given a manual one, which was unsuitable. As a result, she could not be left alone, without the support of her support worker, which compromised her independence and her dignity.

Due to the learning and physical difficulties of both those constituents, they do not meet national criteria for attendant-controlled electric wheelchairs, but the very nature of their disabilities means that they need one. Learning difficulties mean that they cannot use patient-controlled chairs. They are excluded from accessing equipment that they really need. Quarriers, where they live, bought them the proper chairs—that is another example of a voluntary organisation propping up an underfunded public service.

We hear a lot about the national health service waiting times initiative. What if my constituents had been waiting for a hip replacement? I am sure that members will agree that that would be a mobility problem, just as the lack of a correct wheelchair is a mobility problem. However, waiting times for a wheelchair do not feature in the initiative, because the lack of a wheelchair is not considered a health issue. Why not? It is the same mobility problem as needing a hip replacement. It is like admitting a patient from the waiting list to hospital to have their hip replaced and leaving them on a trolley—but they are off the waiting list.

The European convention on human rights covers fundamental rights, including the prohibition of degrading treatment and the right to a family life. I visited my two constituents before they were given their new chairs and I believe what I say in the motion: their human rights were being abused and it was a degrading way to treat them.

Amnesty International tells us that the majority of public bodies that responded to a recent survey that it carried out did not have a policy to monitor the impact of their activities on the human rights of the public that they serve.

Hugh Henry (Paisley South) (Lab): I commend Trish Godman for encouraging and facilitating this important debate. I hope that she will join me in welcoming to the Scottish Parliament my constituents Caroline and John from Paisley. As well as recognising the difference that proper wheelchairs would make to the quality of their lives, will she acknowledge that it is important that they be able to use their wheelchairs in the wider community? Will she join me in encouraging Renfrewshire Council to improve the pavements in and around Paisley so that wheelchair users can access services when they are out?

Trish Godman: I could not have put it better myself.

The consensus is that the wheelchair service in Scotland is underresourced. The review of the service made 40 recommendations and an analysis showed that an initial £6.6 million per year is needed to upgrade the wheelchair fleet. Yes, that is serious money, but not in the great scheme of things. Governments must make hard and difficult choices. I appreciate that there are limits to the public purse, but vulnerable people all over Scotland are being penalised. Financial consideration should not be the key issue. We need a system that meets users' and carers' legitimate requirements. The existing system is a barrier to social inclusion and social justice.

I have not sat where the minister is, because I was never a member of the front bench, but I did sit in the chamber and listen to her speak when she was on the Opposition benches. She could have been standing where I am tonight making the speech that I am making if I had been sitting where she is. That is the challenge.

In December, an action plan will be presented to the minister. I hope that she will take cognisance of what is said tonight. The system needs money. Users' and carers' human rights and social justice needs must be addressed in the action plan.

This debate is not about getting at the minister: her officials will have told her that I corresponded with her predecessors in the previous Administration from the day that I stepped into the Parliament. I genuinely hope that the debate will, at last, be about fixing the situation.

17:08

Bill Kidd (Glasgow) (SNP): I thank Trish Godman for initiating this debate on an issue that is significant to all those who depend on wheelchairs to live their lives in as dignified and independent a manner as possible.

Last week, I had the privilege of sponsoring an event in the Parliament on behalf of Scotland's Commissioner for Children and Young People, which was entitled "Handle With Care" and was about the moving and handling issues that young people with disabilities and their carers encounter. Almost all the attendees where wheelchair users, and all of them had experienced problems in ensuring that they had the best chair for their disability. Given their ages, that will continue to be an issue for some time, as they grow, but all wheelchair users—regardless of age and whatever their disability—require the best wheelchair that can be provided to allow them the maximum possible social inclusion. Disability or not, we are talking about people who have hopes, aspirations and ambitions. They also have abilities, which their disabilities often overshadow for the able-bodied who, when they see someone in a wheelchair, see the chair, not the person sitting in it.

It is hard for people who are able bodied and who take mobility for granted to imagine how a person in a chair feels if they are dependent on it for their comfort and mobility. We should think, if we can, about what it means if the seat causes sores—the person is confined to bed for a long period while the chair is sent away and a new body mould is made. They are socially isolated for a long time and find themselves at a severe disadvantage that none of the rest of us, if we were feeling ill, would expect to have to put up with. As Trish Godman suggested, lacking a wheelchair in that way is a health issue.

Minor repairs to chairs, even just to a foot rest or a neck rest on a self-guiding chair, require two or more weeks to carry out. During that time, the person has to sit in a chair that is not made for them and, in most cases, is not suitable for them. Although the use of a supervised manual chair is a way of getting round that situation, it robs the person of the limited independence that they normally have. If we think of those frustrations, we can understand how wheelchair users feel every day when their chair has broken down or requires a repair. That point was emphasised to me by the visitors from Quarriers, whom I was pleased to meet and speak to earlier today—some of them are in the public gallery. It is a pleasure to see them here. I hope that we will have good news for them as soon as possible.

It is imperative to consult wheelchair users when formulating policy, right from the very start. We should listen to bodies such as the Scottish Disability Equality Forum and Quarriers, which have the expertise of disabled people and their carers. They have stated that disability issues have for too long been at the back of the queue when allocating resources. Quarriers and the Scottish Disability Equality Forum are not-for-profit agencies with great expertise in providing services to adults and children. They cover the whole range. I know that we are all grateful to them for their input and for providing us with facts and figures, which I hope the minister will examine to guide her response to this debate on the needs of wheelchair users.

17:12

Jim Tolson (Dunfermline West) (LD): I am delighted to speak in this important members' business debate, and I commend Trish Godman for securing it. As a Liberal Democrat, I am absolutely committed to the human rights of all. Human rights are universal, and they must be universally applied. No individual, whatever their circumstances, should be left out.

Wheelchair users deserve the support that they need to live full and active lives. Ensuring that such support is provided is a matter of guaranteeing their human rights. Fortunately, large strides have been made in recent years to improve access and services for wheelchair users, but all sides in the chamber and beyond acknowledge that a great deal more remains to be done. The days of wheelchair access being an afterthought are no more, and there is a fuller recognition throughout Scotland not only of the needs of wheelchair users but of their rights.

As part of the previous Executive, the Liberal Democrats endorsed “Moving Forward: Review of NHS Wheelchair and Seating Services in Scotland” and we support its conclusions, which include the need to address the lifestyle requirements of wheelchair users; the need to base service delivery on holistic requirements; the need to ensure consistent provision across the country; and the need to deliver a seamless multi-agency service, locally and nationally, to users and carers. We will work constructively with the Government to make progress on each of those areas and to help liberate wheelchair users from some of the difficulties that they face.

The role of carers should not be forgotten in the debate. Much of the assistance that individuals in wheelchairs receive comes from family members and friends, and it is incumbent on us not just to pay tribute to those who provide care but to do what we can to support them. We must never lose sight of the tremendously valuable work that carers in Scotland do, and we should always be grateful for it.

More money is going into providing wheelchair services, but it must get to where it is needed most and be spent in ways that improve the lives of wheelchair users directly and give them options in place of restrictions. Most important of all, it is clear that people who use a wheelchair should have access to one that is right for their requirements and circumstances. That is not just a question of comfort or preventing further injury; it is crucial if individuals are to take advantage of employment and educational opportunities, and to participate in social and leisure activities. That is their right and our responsibility. Wheelchair users want to lead mobile and independent lives, and they deserve every chance to do so.

I never cease to be amazed by the skill, courage and commitment of wheelchair athletes in basketball, tennis and other sports. As sport spokesperson for the Liberal Democrats, I am conscious of the need to do more to encourage sporting participation and provision for all in our society. Disability should be no barrier to that.

The other aspect of the portfolio for which I am spokesperson is housing and communities. I note with interest Gordon Brown’s recent proposals that new homes should be made considerably more wheelchair friendly. Although a number of issues surround such plans, they serve to illustrate that the rights of wheelchair users have advanced far up the political agenda. We have a duty to keep them there. This debate represents an excellent starting point, but it is just a start.

The motion calls for wheelchair users to be able to

> “lead tolerable lives in their communities.”

That must be the bare minimum of our ambition as we strive to respect fully the human rights of all wheelchair users and support them in leading lives that are not merely tolerable but fulfilling, rewarding, productive and independent.

17:16

Jackson Carlaw (West of Scotland) (Con): This is one of those occasions on which the motion seems to say it all. Trish Godman lodged a comprehensive statement summarising the issue at hand and spoke to it effectively. I am grateful to her, because I have to confess that I was less familiar with the issue than I ought to have been. While researching the situation, I became convinced that progress to improve the position for wheelchair users had run into the sand.

I am drawn to the conclusion that a ministerial statement and questions might have been the more appropriate format, because we are in danger tonight of treading a well-worn wheel, given that a perfectly practical and sensible report has been produced and was previously welcomed—yet here we are. For all the work and detail in the “Moving Forward” report, it seems that it has been gathering dust rather than traction. Fundamentally, the recommendations still need to be implemented and they must be supported by an adequate—by which I mean incremental—level of funding. I make no party-political point. I accept that the previous Executive acted in good faith and that the present Government is doing so, too. It is just that a pretty cursory glance at the recommendations in “Moving Forward” and at the supporting evidence confirms that the current forecast levels of funding are inadequate and, although the funding is welcome, it will see us treading water rather than making substantive progress.

In addition, the case for creating a national structure to implement the recommendations remains unanswered—the recommendation to create such a structure remains unfulfilled—and the painfully frustrating practice of ensuring that the right type of chair is identified for the particular physical impairment remains unaddressed.

To those coming to the discussion anew, it must seem that the inherently antediluvian practices that the report sought to rectify belong to another age. I guess that, once again, it is a case of out of public sight, out of public mind. In no other area of widely accessed public service would a similar situation be tolerable any longer. If the reality of the current situation was widely understood by those who are not in need of wheelchairs, it would not be tolerated.

The submissions detailing progress, that were made available to members by the Scottish Disability Equality Forum and Quarriers are disappointing—desperate even—in their astonished bewilderment at the seeming total lack of practical progress. It is extraordinary that technical advances have led not to practical steps forward but to real steps back—all because the available improvements cost more.

All that is being borne stoically by our vulnerable and courageous fellow citizens and veterans who are waiting for an incorrectly allocated, inferior product and who are expected to do so with some sort of old-communist-state gratitude for the privilege.

I find myself ranting against the sheer ineptitude of it all while recognising that that in itself will not serve much purpose—but, hey, it is late in the day, and I thank Trish Godman for the opportunity to rant.

This is the 21st century. We are all quick to use politically correct language, sign petitions advocating equality for all our citizens and offer our support for reports that promise that all will be well. However, we are witnessing advantage being taken of a vulnerable group. We should be able to celebrate the extraordinary advances that have been made in wheelchair technology and design, which should be liberating many wheelchair users.

The failure is as ridiculous as it is shameful. We need resolve—Parliament has shown it before on a breathtaking scale, with the introduction of free personal care for the elderly. Surely in a modern Scotland, in which every citizen seeks to play their part, a national strategy and a national wheelchair stock of the first order should be achievable? Which Government minister would agree to be ferried around in a 50-year-old ministerial car—or a standard entry model, for that matter?

As someone who is steeped in the Scottish retail motor industry, I recall my parents telling me that half a century ago they would go down to the production plant to pick up vehicles and drive them back to Glasgow sitting in a box, as a seat was optional, and wearing scarves, as windshields were optional too. Why are wheelchair users still being allocated model T-generation wheelchairs?

I support Trish Godman, and congratulate her on securing a debate that has engaged my support. I hope that the minister will give a constructive and positive response on how the report can and will be thoroughly implemented—setting aside any nod to who has done what and when—in order to give Scotland’s wheelchair users the response that they seek. I hope that she will go beyond that and promise that we will give real equality of opportunity to wheelchair users by ensuring that the product that they have is totally suitable for their needs and the very best available. As a human right, none of us should settle for anything less.

17:21

Johann Lamont (Glasgow Pollok) (Lab): Members have already indicated that this is an important debate. If Mr Carlaw was hesitant about following Trish Godman’s speech, he should consider how I feel about having to speak after him—he encapsulated the passion around this issue, which a lot of us share. I welcome the opportunity to contribute to the discussion.

Today, I met people from Quarriers—in particular, one of my constituents, Mr Fraser Wood—and again I recognised the challenge that people face in addressing the question of wheelchair use as wheelchair users themselves.

Like any equalities issue on the agenda for action, this issue is there not because of our good will and because we care about it, but because of the campaign activity, determination and energy of those who experience inequality and of the carers who support them. Wheelchair users and their carers have driven the agenda on this issue, and I applaud their energy and the energy of the groups and voluntary organisations that have supported them in ensuring that there was a review of wheelchair services and that we are now at the stage where we want to make further progress.

I will not make a party-political point—the points that have been made so far all show that the problem’s existence is a reproach to all of us who are in a position to do something about it. It is also a broader reproach to a society that has allowed the situation to go on for too long. It is clear that political action should be shaped by those who not only understand the problems, but have the solutions. I hope that the minister can answer the question whether there is now a disability forum sitting inside the Scottish Government that would bring these groups together. There was such a body in the past, and I hope that she will commit today to bringing such a group together to pursue these issues, because it could press the right arguments in the right places.

The test of the rhetoric of equality and our commitment to it is an understanding of the practical issues that need to be addressed in order to deliver on that rhetoric. The wheelchair example is as good as any of the way in which we have to move from a general commitment to equality to addressing the practical issues that provide the barriers. I hope that there is a proper understanding of the need to deliver in partnership with those who understand the issues best.

The critical issue is that we need to view the wheelchair not as a machine or as a mechanism, but as a straightforward part of someone's care package and as the way in which they manage to maximise their abilities and their potential. The comparison with hip replacements is a good one. We do not see hip replacements in the same way—as somehow being a bonus, when in fact they can be critical to the quality of people's lives and their capacity to engage with their families and broader society.

As has been said, we need to look at the person and not the wheelchair, and we should not try to shape the person into what we think their wheelchair should be. Why should they not have the wheelchair that they need for the kind of disability and needs that they have?

The review was driven by those who understood the issues, and I wonder why the action plan has been delayed—for another year, it seems. Will the minister at least commit to examining these issues, which could be progressed before the broader action plan recommendations are brought forward? That would give people confidence that action was being taken.

I note from some of the submissions that we have received that people want a national service. Wheelchair service provision seems to be irrational and not attached to need within local areas—I ask the minister to consider that issue.

There is a broader issue about social inclusion and human rights, which is encapsulated in the way that we talk about disabled parking spaces. Somehow people think that someone with a disabled parking space has stolen a march and is getting a privilege. Some of the debate around wheelchair services is like that—it is as if someone is asking for something extra. The fact that the matter has been put in the context of human rights is critical. We should not tolerate the barriers. I hope that the minister will respond positively to the supportive points that members have made in the debate.

17:25

Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): Johann Lamont's concluding remark about setting the debate within the context of human rights is exactly right, and my remarks will be within that context. I congratulate Trish Godman on bringing the matter to the chamber for debate. Her speech and the speeches from other members reach out in a very real way to wheelchair users, and to carers as well.

Members have given the minister a lot of food for thought. An important question was posed about whether a disability forum will sit within the Scottish Government. That question is a litmus test of how seriously the matter is taken.

I will talk briefly about disabled access. Members will recall the lack of access in the Parliament's temporary home up the road from here. Looking back, it was a disgrace. We should all be proud of the level of disabled access that we have in our building today. It is one of the best things about the building. We recognised the issue, took it on board, and we have what we have today.

In October 2007, the *Caithness Courier* printed an article under the headline "Disabled woman was barred from bus". The issue that is raised in the article parallels the one that Johann Lamont raised about parking spaces. The article states:

> "A disabled Lybster woman was reduced to tears when she was told that she could not take her mobility scooter on a bus while trying to make one of her regular shopping trips to Wick."

The case became a cause célèbre in my constituency. It is entirely wrong that she was denied access to the bus, and things got worse because the driver was not as helpful as he could have been.

Cathy Peattie (Falkirk East) (Lab): The member raises an important point. Does he agree that people who work in public services should get disability awareness training? Such training is important if we are to ensure that people can use services and get the support that they require, for example, to board a bus or to access timetable information so that they know what time the bus will turn up. There is a lot of work to be done on training and awareness.

The Deputy Presiding Officer: Before the member responds, I say that I have been fairly relaxed, but the motion is fairly specific and it is not really about access issues. I ask the member to address the motion in his concluding remarks.

Jamie Stone: The motion's title is about wheelchair users and their human rights. If I am incorrect to address my remarks to that issue, I will—

The Deputy Presiding Officer: We are debating the motion. The fact that it has a title does not mean that we do not debate the motion. I ask the member to refer in his remarks to the motion in some way.

Jamie Stone: Very well. With that guidance from the chair, I conclude my remarks by saying that disabled access to bus travel in Caithness and the north of Scotland leaves a great deal to be desired, and I would argue that that is a fundamental infringement of human rights. It was raised with Tavish Scott in the previous Government and I have raised it with Stewart Stevenson. I will not rest until it is sorted.

17:28

Sandra White (Glasgow) (SNP): I am a member of the Equal Opportunities Committee, and I was also a member of the committee in the previous session, when Cathy Peattie was the convener. We carried out an inquiry into disability issues and took evidence on the matter from Government ministers, and the committee continues to consider the matter.

In the inquiry, we considered the choices that people with disabilities have. Time after time, we heard that wheelchair users could not get new wheelchairs and that they faced problems with access to buses, trains and so on. Other members have raised that point, and it is important because, as Johann Lamont said, the situation has been going on for years and years. I would like the minister to take that on board and write to local authorities to remind them that people who use wheelchairs have just as much right as the rest of us to enter town centres, use pavements, enter public toilets and so on.

To get back to the substance of the motion, I congratulate Trish Godman on bringing the matter to the chamber for debate. She has raised the matter many times, and I have also raised it in committees and in the Parliament.

I will give an example of a constituency case that I dealt with. A young person was told that, because she was going to grow, she could not get a wheelchair. That was absolutely ridiculous. The health board could not afford to give her a wheelchair simply because she was going to grow—she was about eight years old at the time—and it would have had to replace the wheelchair. As Johann Lamont said, a wheelchair is not a prop—it is something that helps people's quality of life, and people should have the right to a wheelchair as they grow, progress through life and access education or whatever.

I was appalled, not just by the answers that I received from the health board but by the treatment received by people who approach health boards to request an upgraded wheelchair because they are older or their disability has got worse. They are sometimes treated with such disdain that it is downright disgraceful.

Health boards should perhaps have training—Johann Lamont and Bill Kidd mentioned training on how to lift people from wheelchairs, but perhaps boards or doctors should be given training in basic good manners when they are speaking to people who say that they need an upgraded wheelchair to have a decent quality of life. One of the most appalling aspects is that the health boards use a lack of money or facilities to prevent people from getting upgraded wheelchairs.

The problem has been with us for far too long and, unfortunately, it will probably continue to be with us—although, I hope, only for a number of months. I hope that the new Government and the Minister for Public Health will seriously consider it. I hope that, as well as writing to local authorities as previously requested, the Government will write to health boards to tell them that someone in a wheelchair deserves to live their life in the same way as the rest of us. Health boards should not use the excuse of having no money or people growing for not giving someone a wheelchair. I would like to see such a letter going not just from MSPs but from the minister.

17:31

Jackie Baillie (Dumbarton) (Lab): I join others in congratulating Trish Godman on securing the debate. Wheelchair services have been the subject of motions—Trish Godman has run with several in the past—petitions and even a Government review. However, like her, I do not think that we have gone far enough in achieving what can be described as even just a good service.

I associate myself with Trish Godman's remarks that the debate should unite the chamber. It is neither about having a go at the minister nor about looking again at what the problem is. We have had the review and identified the problem; the debate is about fixing the problem and providing solutions.

The independent review of NHS wheelchair services identified the clear need to invest more resources, to reduce waiting times and ultimately to improve the service. The previous Executive invested £1 million to reduce waiting times for this year. I understand that the Government has invested £4 million for next year and £6 million thereafter, and the money is welcome. Questions have been raised about whether that is enough, but I believe that we need to monitor how effectively the money is used to make the right changes in the service.

I echo Johann Lamont's call for a national strategy. Only when we bring the focus that the minister will bring to the issue will we see the change on the ground that we desire.

Let me put the debate into some context. People in all our constituencies have had a less than positive experience. The waiting times have been inordinately long, and I agree with Trish Godman that waiting time targets might just bring a much-needed focus. I invite the minister to consider that.

Let me give members a couple of real examples. The wife of one of my constituents is wheelchair bound. Her husband describes her wheelchair and the assessment process for procuring her wheelchair or any accessories as a disgrace. He tried for more than a year to find a suitable head rest and neck brace to support her. He was given the runaround about whom to contact for what: the neck brace was the responsibility of one organisation, while the head rest was the responsibility of another. Meanwhile, his wife remained in pain. He is also in a wheelchair, and he has now resolved to buy and repair his own wheelchairs. Clearly, that is not acceptable.

In another example, a mother encountered distressingly long waiting times for a wheelchair for her son, who has cerebral palsy. She ordered the chair, which arrived just under a year later. As they had waited for so long, the chair was too small. It then took another seven months for them to receive another wheelchair after an additional request. It sat in the offices at WESTMARC—the west of Scotland mobility and rehabilitation centre—for all that time due to a lack of staff to fit her son in the chair. Again, that is clearly not acceptable. What quality of life was there for that young boy?

What is happening is a fundamental breach of people's human rights, so I would be grateful if the minister would consider a national strategy, monitoring to ensure that the additional resources that are being made available are making a difference and finding additional resources on top of that if required.

The Parliament is at its best when we put aside our differences and focus on the key issues that matter. This is one such issue. For the sake of wheelchair users throughout Scotland, I invite the minister, with the Parliament's support, to fix the problem.

17:35

The Minister for Public Health (Shona Robison): I congratulate Trish Godman on securing the debate. I assure her that I will of course take cognisance of what has been said and of members' views. The issue is important and sometimes very difficult for all those who have cause to access NHS wheelchair and seating services, as members have outlined, and who have waited too long for high-quality services throughout Scotland that meet their needs in participating fully in society.

I understand the frustration that has been expressed. Successive Administrations have promised much and delivered little improvement in the past 25 years. Reviews of rehabilitation technology services that were undertaken in 1982 and 1997 identified many of the same issues as are still with us today, including the need for the number of satellite services to be increased to bring services closer to patients; for improvements to patient transport arrangements; for efficiency savings in refurbishment procedures; for clearer definitions of the service's parameters; and for more integration with other service providers.

In opposition, we welcomed the previous Executive's independent review and the report "Moving Forward: Review of NHS Wheelchair and Seating Services in Scotland". That review was a direct result of the petition to Parliament in December 2004 by the late Margaret Scott of the Scottish wheelchair forum, whose daughter is disabled, which urged the then Executive to

> "resolve the current critical problems in the provision of wheelchairs and specialist seating services within the NHS … through a review, which in consultation with users, will address minimum standards, the scope of equipment provided and the delivery of services."

The provision of wheelchair and seating services is a complex activity that impinges on social, housing and education services, as well as health services. A major challenge for all the stakeholders will be to establish an effective mechanism to achieve real change for the benefit of service users.

A further challenge will be to target areas in which changes will benefit the greatest number of users and carers, within a reasonable timescale and in ways that are cost effective to the NHS and its partners, while improving waiting times and providing services that continue to meet users' and carers' needs in the shorter term.

The disability equality duty, which came into force in December 2006, obliges public bodies, including the Government, proactively to identify and eliminate discrimination against disabled people and to promote positive attitudes to disabled people and their participation in public life. The United Nations Convention on the Rights of Persons with Disabilities came into force in 2007.

We know what we have to do. I reassure Jackson Carlaw that the review report is not gathering dust—far from it. As the review recommended, a project board has been established. The board's membership is wide and includes user and carer representation, which is important, as well as rehab technology professionals, service providers and equality representatives. The board is taking the work forward.

Trish Godman: Will the extra money to health boards be ring fenced? We want the money that is being provided to go exactly where it should go. Perhaps some things could be done immediately.

Shona Robison: I am coming to that.

I realise that people who use the services now want real progress. Service providers are considering and implementing several recommendations of the wheelchair review, including the introduction of satellite clinics in the west of Scotland and in Tayside, which relates to recommendation 4; the introduction of self-referral by all five wheelchair and seating centres, to enable users to have their equipment requirements reviewed, which relates to recommendation 8; and the introduction of planned preventive maintenance in the NHS Highland area and in the west of Scotland for powered chairs, which relates to recommendation 32.

The project team will produce an action plan by December for my approval. Members should be under no illusion that there is any room for slippage in that regard—I reassure Johann Lamont on that point. The action plan will identify the recommendations that best meet the needs of the users and carers and which are achievable, measurable—Jackie Baillie mentioned that—and the most effective use of resources. We must get this right; we do not want to be back here again. That is why a three-month period for consulting all those with an interest in wheelchair and seating services has been built into the timeline for delivery of the action plan.

Following the outcome of the comprehensive spending review, over the next three years £16 million of additional funds will be allocated to the modernisation and redesigning of NHS wheelchair and seating services in Scotland. I think that, in the current financial climate, that is a fair settlement for a very important issue. However, the additional resources will be released only following the Scottish Government's approval of robust, fully costed business cases from each of the five wheelchair centres in Scotland and taking into account the terms of the action plan. I hope that members are reassured that we will ensure that the money is spent on the right things in the right places.

I know that Trish Godman takes a keen interest in the Quarriers village near Bridge of Weir, which is a charity that supports both adults and children with disabilities. WESTMARC provides wheelchair and seating services to Quarriers. It is in direct contact with Quarriers and is familiar with the issues of access to attendant-controlled powered wheelchairs and the safe use of manual wheelchairs by young adults at Quarriers. WESTMARC provides powered wheelchairs to people who meet the national eligibility criteria, and many young adults at Quarriers and similar facilities need wheelchairs due to their lack of mobility.

As Trish Godman will acknowledge, this is not just about resources. WESTMARC clearly has a responsibility to assess the needs of young adults who are affiliated to Quarriers and to provide and maintain suitable equipment for them. In some instances, challenging behaviour and its management have to be taken into account and will influence the equipment that can be provided. There can sometimes be conflicting aims, but it is clear that at all times safety considerations must be paramount. The wheelchair project team will work with service managers in conducting a review of the national eligibility criteria for powered wheelchairs. I hope that that addresses Trish Godman's concerns in that regard.

It is imperative that NHS boards support the modernisation of wheelchair and seating services by providing adequate funding to the services on an annual basis as well as the additional resources from the spending review. The Scottish Government is determined to drive forward the modernisation and redesigning of Scotland's wheelchair and seating services, underpinned by robust funding arrangements, for the benefit of all users and carers. I hope that that reassures all members who have taken part in the debate.

Meeting closed at 17:43.

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