

# **MEETING OF THE PARLIAMENT**

Thursday 6 March 2008

Session 3

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# Scottish Parliament

Thursday 6 March 2008

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

## State Hospital (Redevelopment)

**The Presiding Officer (Alex Fergusson):** Good morning. The first item of business is a statement by Nicola Sturgeon on the redevelopment of the state hospital. The cabinet secretary will take questions at the end of her 10-minute statement, so there should be no interventions.

09:15

**The Deputy First Minister and Cabinet Secretary for Health and Wellbeing (Nicola Sturgeon):** Recent media coverage has raised questions about the decision to reduce the number of beds at the state hospital as part of a planned redevelopment of that facility. I welcome the opportunity to provide reassurance to Parliament and to explain exactly what is planned for the state hospital.

The current policy on the management of mentally disordered offenders was established in January 1999 and is outlined in the document "Health, Social Work and Related Services for Mentally Disordered Offenders in Scotland". That document established a number of key principles that were intended to provide protection for the public and to ensure the provision of appropriate care and treatment services. The four key principles that were articulated are that mentally disordered offenders should be cared for with regard to quality of care and their needs as individuals; in the community, as far as possible, rather than in institutional settings; under conditions of no greater security than is justified by the degree of danger that they present to themselves or to others; and in such a way as to maximise rehabilitation and their chances of sustaining an independent life as near as possible to their homes and families. Those principles have informed the development of the forensic mental health services in Scotland since 1999.

The third principle, which is about ensuring that such offenders are cared for in conditions of appropriate security, has since been enshrined in section 1(4) of the Mental Health (Care and Treatment) (Scotland) Act 2003, which states that functions under the act should be discharged in a

"manner that involves the minimum restriction on the freedom of the patient that is necessary in the circumstances."

We are rightly proud of our mental health legislation and in opposition I was pleased to support it. It gives appropriate consideration to public protection and to the care and treatment of individual patients.

In 1999, when the current policy was developed, it was clear that the national health service estate that offered secure care for mentally disordered offenders did not comply with the principles that I have outlined. With the exception of mentally disordered offenders who received the high-security service that was provided by the state hospital, all such offenders who were cared for in in-patient settings were in low-secure settings. The fact that there was no intermediate stage between high security and low security meant that patients were spending longer at the state hospital than was necessary for their rehabilitation or for public safety. It also meant that when they transferred on to another hospital, the step down in security level that they made was in some cases greater than might have been desirable.

The policy direction that has been pursued since 1999 has resulted in the creation of two regional facilities that provide treatment in conditions of medium security—in other words, in settings where the level of security is somewhere between the level of security at the state hospital and the level of security of a locked ward.

The Orchard clinic in Edinburgh, which opened in 2000, provides 50 medium-secure beds, primarily for the population of the east of Scotland. The Rowanbank clinic in Glasgow, which opened last year, provides 74 beds, primarily for the population of the west of Scotland. Plans are in hand to establish a similar facility for the north of Scotland. Those units have been specifically designed and built to conform to an agreed environmental, procedural and relational model of security within mental health services. Each medium-secure unit is designed to meet and operate to exacting standards, thereby ensuring that patients are cared for in conditions that are appropriate to the level of risk that they are assessed to present.

The creation of those new units has resulted in a reduction in the number of beds required at the state hospital. Work was done by the forensic network, the three regional planning partnerships and the Scottish Government to model the future requirement for beds, and the outcome of that work was published as a Health Department letter in 2006.

The reduction in the number of beds required enabled the previous Administration to agree that the business plan for the redevelopment of the

state hospital should include a planned reduction from 240 beds to 140 beds. I will put that in context: at the moment, there are only 115 restricted patients in the state hospital.

So far, good progress has been made with careful and considered planning for the redevelopment and modernisation of the state hospital. When that process has been completed, in 2011, the institution will offer a standard of care and accommodation that is appropriate to the age that we live in and to the expectations that we have of modern health care facilities. Next month, my colleague the Minister for Public Health, Shona Robison, will attend the ceremony to mark the start of the building works.

I know that the state hospital staff welcome the development, which fits with their focus on the provision of modern care in a safe, secure environment, in which the objective remains to match each patient with the appropriate care and level of security.

It is important for me to stress that the redevelopment will not, as some people have rather irresponsibly suggested, result in a sudden exodus of 100 patients from the state hospital. Nevertheless, recent coverage has prompted discussion about the process for the transfer of patients from the state hospital, so I want to set out the legal and the policy position.

As members are aware, many patients who enter the state hospital are very ill and, for that reason, present a high level of risk at the time of committal. However, with modern treatment, through drugs and therapies, their mental illness can be treated and managed and the level of risk that they present can be reduced. In such circumstances, it is appropriate that they be considered for a move to a lower-security setting. Although we want patients to make progress, the process for managing the rehabilitation of patients at the state hospital is a careful one. No patient is transferred unless a robust risk assessment has been carried out for the patient and there is clinical agreement that the level of risk that the patient presents can be managed by the receiving hospital.

I take the decision on the transfer of restricted patients and, in each case, will want to assure myself that appropriate arrangements have been made and that safe care will be provided following the transfer. Scottish ministers' consent is required under section 218 of the Mental Health (Care and Treatment) (Scotland) Act 2003, which allows for no exceptions.

The 2003 act creates a parallel process to the transfer process by allowing patients to appeal against being held in conditions of excessive security at the state hospital. All appeals are

carefully considered by the Mental Health Tribunal for Scotland and only when the tribunal is satisfied that the patient no longer requires to be detained in the special security of the state hospital on the grounds of risk will it find that the patient is being detained in conditions of excessive security. Patients who are successful in their appeals are generally transferred to a medium-secure unit but, in the case of restricted patients, that still requires the consent of Scottish ministers.

In addition to our role in respect of a transfer, Scottish ministers have the right to be represented at any appeal, and to argue that the conditions are not excessive and that the patient is appropriately detained in the state hospital.

We recently introduced a further safeguard for the public, whereby all restricted patients, from the time that they enter the mental health system, should be managed through a robust care programme approach, as part of which care plans are developed and monitored by a multidisciplinary care team, including members of the police. It is the responsibility of all NHS boards to ensure that the CPA regime is implemented effectively for all such patients in their care and for other patients about whom there are concerns about the risk that they pose.

I hope that my statement will reassure members that the current developments in the physical forensic estate are part of a long-standing policy to ensure that public safety is protected and that mentally disordered offenders are properly cared for and managed in settings that are appropriate to the level of risk that they present.

**The Presiding Officer:** The cabinet secretary will take questions on the issues that have been raised in her statement. I will allow around 20 minutes for such questions, after which we will move to the next item of business.

**Margaret Curran (Glasgow Baillieston) (Lab):** I thank the cabinet secretary for the advance copy of her statement and, having asked that such a statement be made, I welcome the fact that that has now happened.

Can the cabinet secretary confirm that no recommended transfer of appropriate patients will be delayed as a result of a lack of resources or a lack of places?

My second question is more complex. On 21 February, the First Minister claimed that ministers are required to consent to any hospital transfer of a restricted patient—a requirement that the cabinet secretary, in a letter to *The Herald* on 26 February, claimed

“is not subject to any exception or exclusion.”

However, sections 264 to 273 of the Mental Health (Care and Treatment) (Scotland) Act 2003

allow patients in the state hospital, including those with restricted status, the right to appeal against being kept in conditions of excessive security. If the Mental Health Tribunal for Scotland rules that they are being held in conditions of excessive security, that order can be enforced in the Court of Session. Would the cabinet secretary therefore be prepared to amend her position in order that she is not seen to take a view that is contrary to article 5(4) of the European convention on human rights, which states that any person who is deprived of liberty by detention must be entitled to take court proceedings by which the lawfulness of that detention can be challenged? Does the cabinet secretary agree that, under section 193 of the 2003 act—which she supported—ministers do not in any case have the final say on who remains on a restriction order?

**Nicola Sturgeon:** I thank Margaret Curran for those questions. I am sure that she agrees that although she asked for today's statement, the law and the policy are a continuation of the law and the policy that were followed by the previous Administration. She asked whether I could assure her that the recommended transfer of patients would not be delayed because of a lack of resources. I assure her that the Government's objective—again, I believe that we are continuing the policy of the previous Government—is to ensure that adequate resources are in place at the right levels of security to ensure that patients are cared for in appropriate settings. That is the thrust of our policy on mentally disordered offenders. Like the previous Administration, I think that that policy is right.

I turn to Margaret Curran's second question. I covered that aspect in full in my statement. Ministers are required to consent to transfers of restricted patients out of the state hospital. There is no ambiguity about that. There is a parallel process under the Mental Health (Care and Treatment) (Scotland) Act 2003, which I detailed in my statement. It allows patients to appeal against being held in conditions of excessive security. As I said, ministers have a right to be party to those proceedings, and indeed can object to a finding of a patient being held in conditions of excessive security. If the Mental Health Tribunal for Scotland finds that a patient is being held in conditions of excessive security, there is an obligation on NHS boards and the Scottish Government to ensure that that patient is transferred to a more appropriate setting. However, the critical point is that no transfer takes place without the approval of Scottish ministers, and Scottish ministers do not give the approval to transfer unless they are satisfied that the setting to which a patient is being transferred is appropriate both for the patient and for public safety.

Margaret Curran says, rightly, that patients can appeal ultimately to the Court of Session. She will want to be aware, though, that that has never happened because the Government, working with NHS boards, complies with orders that are made by the Mental Health Tribunal for Scotland. However, we do so in a way that ensures that ministers are responsible for determining that any transfers are appropriate. That system is right—it strikes the right balance between public safety and the needs and interests of patients. I will continue to apply that policy with a great deal of care.

**Mary Scanlon (Highlands and Islands) (Con):**

I, too, thank the Cabinet Secretary for Health and Wellbeing for the copy of her statement. The issue was under discussion in 2003 and I welcome the progress that we seem to have made.

First, the health secretary states that

"with modern treatment, through drugs and therapies ... mental illness can be treated and managed".

Will she confirm that all patients with a personality disorder, both in Carstairs and in the community, will be given the appropriate diagnosis, treatment and support?

Secondly, I agree with the health secretary that patients should be cared for as near as possible to their homes and families. Will she give more information on the proposed medium-secure unit to serve patients from the north and north-east of Scotland?

Finally, with 100 patients from Carstairs about to be moved to medium-secure units—I appreciate that that will happen over a period—and only 124 medium-secure unit beds in Scotland, will the health secretary give an assurance that those patients who are currently in the Orchard clinic and Rowanbank will not be moved into the community to make way for the Carstairs patients unless and until it is clinically safe for them to be independent in the community, and public safety is assured?

**Nicola Sturgeon:** I thank Mary Scanlon for those questions. First, I assure her that nobody will be moved anywhere unless it is right for the patient and right in the interests of public safety. In the case of restricted patients, those decisions lie with me and I will make them with a high level of care and attention.

The point that I tried to make as gently as I could in my statement, but which I want to emphasise very strongly indeed, is that it is not the case that 100 patients are about to be transferred out of the state hospital. We are talking about a planned redevelopment of the state hospital, which will, over a period of years, lead to a reduction in the number of beds. The number of beds at the end of that process is estimated to be 140. To put that in

context, as of today there are fewer than that number of restricted patients in the state hospital. Whatever the temptation, I appeal to members not to indulge in a scaremongering exercise about some mass exodus from the state hospital—that is not based in fact.

The planning for a medium-secure unit in the north of Scotland is on-going. I undertake to fully inform Mary Scanlon—as I will inform the whole Parliament—of developments in that respect. It is important that Parliament is informed as those plans develop.

Mary Scanlon's first question was whether patients with a personality disorder would get the appropriate treatment and support. First, what treatment and support any patient needs is a clinical decision and not a decision for any politician to take. However, it is of the utmost importance—from the perspective of public safety and of the proper care and treatment of patients—that the care and treatment a patient is considered to need upon diagnosis, and relating to their diagnosis, are the care and treatment that they receive. That is what I intend to happen.

**Ross Finnie (West of Scotland) (LD):** I, too, thank the Cabinet Secretary for Health and Wellbeing for the advance notice of her statement. On behalf of my party, I particularly welcome the fact that the Government is continuing the policies that developed from what was regarded as a seminal work, "Health, Social Work and Related Services for Mentally Disordered Offenders in Scotland", which was published in 1999. The cabinet secretary's statement has clarified the current state of play. She mentioned the medium-secure units. That report, having dealt with the inadequacy of not having such units, identified the danger that we might not properly manage the procedure of taking patients from medium security to lower security. That is, if you like, the other side of Mary Scanlon's question. Will the cabinet secretary expand on that?

Among the major deficiencies in the previous system was the absence of adequate care for those with learning disabilities and services for children and adolescents. How is the cabinet secretary taking forward those two important aspects?

**Nicola Sturgeon:** I thank Ross Finnie for those constructive questions. He raises an accurate point about the concerns expressed in the report that once we dealt with the inadequacy of a lack of medium-secure capacity in the forensic estate, there was a danger that there would be problems further downstream. However, I reassure him that one of the four principles at the heart of our policy is that people are treated as close as possible to their homes, communities and families. The decisions that are taken around that must have

due regard to public safety as well as the interests of patients. I assure Ross Finnie that we want to ensure that that principle is enacted in practice. I do not want people to be detained in conditions of excessive security, whether that is in the state hospital or in medium-secure units. It is important that we get people into the right conditions and care settings, and that we have the right capacity and services in place to enable that to happen.

Ross Finnie asked about taking forward adequate care for people with learning disabilities and for adolescents and children. I am happy to write to him in detail about how we are taking forward that aspect of our policy.

**The Presiding Officer:** We come to questions from back benchers. Members know the form by now.

**Aileen Campbell (South of Scotland) (SNP):** Will the cabinet secretary expand upon the level of liaison and communication that she has had with staff working in the state hospital?

**The Presiding Officer:** Brevity is indeed beautiful.

**Nicola Sturgeon:** It is commendable.

Shona Robison chaired the annual review of the state hospital last year. As I said, next month she will return for the opening ceremony of the start of the building works. As with staff anywhere in the NHS, I set great store on good communication and the good relationships that we have in NHS Scotland as a whole. There are excellent staff partnership arrangements, which apply in the state hospital as they do in all other parts of the NHS.

**Karen Gillon (Clydesdale) (Lab):** As the constituency member for the state hospital, I welcome the cabinet secretary's statement and pay tribute to the staff in the hospital for providing a valuable service to patients and the public.

On the bed configuration, particularly in medium-secure facilities, you will be aware that the Orchard clinic is operating at capacity and that the Perth unit is not yet available. Are you content—

**The Presiding Officer:** I am sorry, Ms Gillon, but I must ask you not to use the word "you".

**Karen Gillon:** Sorry.

Is the cabinet secretary content that the proposed bed configuration is adequate for appropriate transfers? As someone who has always supported appropriate transfers, I would not want to be accused of scaremongering in any way, shape or form. Is she also content that the beds are in the right place to enable patients from across Scotland to be housed as close to home as is appropriate?



**Nicola Sturgeon:** I acknowledge Karen Gillon's close interest in these matters as the local member. I echo the point that she made about the staff in the state hospital: they do a difficult job very well. I am sure that we would all want to pay tribute to them and the commitment that they show.

Karen Gillon raises some important issues about bed configuration. She asked whether I am confident of the bed configuration that we have proposed. The short answer is yes, but—as with any other aspect of bed planning in the NHS—there is always a need to keep the situation under review. We will do that in this case, as we do in any other part of the NHS.

It is important that we have the right number of beds in the state hospital, but to ensure that people are not being detained inappropriately in the state hospital we must ensure that there are also the right number of beds in the medium-secure estate and the right services in low-secure settings to ensure that people can be treated as close to home as possible. I think that the planning assumptions that underpin where we are now are right and robust, but I assure Karen Gillon and other members that we will continue to keep these matters under close review.

**Brian Adam (Aberdeen North) (SNP):** What will be the benefits to patients and staff at the state hospital once the redevelopment has taken place? Can the cabinet secretary remind us exactly where we are with the medium-secure unit for the north, in respect of where it will be and approximately how many beds will be available?

**Nicola Sturgeon:** The benefits of the redevelopment to patients and staff are considerable. I hope we would all agree that we have an excellent facility in the state hospital and that those who work there do an excellent job. However, the facility is not as it should be in the modern age and there is a need to ensure that we modernise and develop it to ensure that the staff who work there are working in the conditions that they have a right to expect; more important, the patients must be in the proper conditions, which add to and enhance their opportunities for rehabilitation and recovery. The redevelopment, which is due to be completed in 2011, will result in us having modern, fit-for-purpose facilities of which we can be proud and which will match the modern, fit-for-purpose legislation that the Parliament passed back in 2003.

The medium-secure unit in the north of Scotland is not yet on stream. I want to ensure that members are properly advised of the current state of planning around it. I undertook to give that information to Mary Scanlon in writing—I will ensure that Brian Adam gets it, too.

**Dr Richard Simpson (Mid Scotland and Fife) (Lab):** I will pursue the north-east question a little further, because the issue of resources is clearly important for the speed of transfer, given that the development of the state hospital will be completed by 2011. The cabinet secretary said that she will write with the detail, but can she tell us a little more at this stage? Has the consultation process begun in the north-east? I ask because in 1999 I was the reporter to the Health and Community Care Committee on the medium-secure unit at Stobhill. The cabinet secretary will remember that that was the subject of a bad set of consultations, which led to big changes in the NHS. That meant that there was a long lead time to the development of Rowanbank. I am concerned that the cabinet secretary's time plan will be difficult.

I also have a technical question, in order to be clear about the cabinet secretary's answer to Margaret Curran. Are we saying that the minister does or does not have the final say in the transfer of restricted prisoners? If the Court of Session decides that the restriction of the prisoner is excessive, surely the prisoner must be transferred? Is the minister's power only to delay the transfer if a suitable medium-secure unit place is not available, or is she still saying that the minister has an absolute right to say that no transfer will take place, despite a decision of the Court of Session on appeal?

**Nicola Sturgeon:** I acknowledge the need to move quickly on the north-east medium-secure unit, which is integral to our overall plans. I assure Richard Simpson that plans are well in hand and well developed. It is important that I give full details of that to Parliament in due course.

I want to be clear on the issue about the legal responsibility of ministers. Under the 2003 act, patients can appeal against being held in conditions of excessive security. The appeal can ultimately go to the Court of Session, although no case has yet gone to that court. In such cases, if the tribunal or the Court of Session said that a patient was being held in conditions of excessive security and should be transferred, it is not the case that a minister would attempt to stop the patient being transferred. The minister's decision would be to assure him or herself that where the patient was being transferred to was appropriate. Approval has to be given by ministers before the transfer takes place, and approval has to be given to where the transfer is to. That is the safeguard that is in place. It is an appropriate safeguard, which balances the needs and human rights of patients with the duty and obligation of ministers to protect public safety. We have that balance in our system; Parliament said that that was right in the previous session, and I continue to think that it is right.

**Malcolm Chisholm (Edinburgh North and Leith) (Lab):** I welcome the continuity of policy on these matters, but I will question the cabinet secretary further about patients appealing against an excessive level of security; her colleague Shona Robison said that that was one of the most welcome parts of the bill when it was debated in the Parliament five years ago this month. To some extent, the cabinet secretary clarified the position in her answer to Richard Simpson. Is it not the case that the First Minister has to give consent to the specific place with a lower level of security but does not have the right to stop the transfer altogether? Does she agree that the First Minister was misleading Parliament when he implied that he could stop a transfer? Can she give a guarantee that the First Minister cannot stop a transfer when the Court of Session has demanded it?

**Nicola Sturgeon:** I am disappointed that Malcolm Chisholm, whom I respect greatly, has reduced a serious issue to baseless allegations of members misleading Parliament. I make it clear that no patient, regardless of any appeal against conditions of excessive restriction, will be allowed to transfer out of the state hospital unless the minister approves the place to which they are transferring. The transfer would not take place without ministerial approval. That is crystal clear, and it is laid out in the 2003 act. The Parliament should accept that the act strikes the right balance between the human rights and needs of patients and the very important issue of public safety.

We have proper judicial oversight, which is exercised through the Mental Health Tribunal for Scotland and ultimately the Court of Session. However, we also have a role for ministers, who must undertake their obligation to ensure that, before any transfer takes place, they are satisfied that the proper arrangements are in place. I think that that is crystal clear, and I hope that all members agree.

## Rape and Sexual Offences

**The Presiding Officer (Alex Fergusson):** The next item of business is a debate on motion S3M-1490, in the name of Kenny MacAskill, on the Scottish Law Commission's report on rape and sexual offences.

09:45

**The Lord Advocate (Elish Angiolini):** The Parliament will be aware that the First Minister announced last year that the Scottish Government will bring forward legislation in the light of the Scottish Law Commission's proposals on the law on rape and sexual offences. The proposals are currently the subject of consultation, and today's debate provides a valuable opportunity both to discuss them and to set them in context.

The commission's proposals arise from a background of considerable public, professional and academic concern that the law on rape is unclear and is too narrowly drawn, and that conviction rates for rape in Scotland are significantly lower than those for other areas of criminality and those in other countries.

I welcome the commission's report. The reforms that it proposes are modern responses to sexual crime. They include widening the definition of rape, clarifying the coverage of protective offences regarding children and providing a range of new offences regarding coercion.

I am pleased that the proposals seek to address the role that society's attitudes towards complainers play in the decision-making process. Published research has shown that sections of the community continue to blame complainers for the sexual crimes that have been committed against them when they have acted in a flirtatious manner, worn revealing clothing or consumed alcohol. We must be clear. The indication is not that society thinks that it is unwise of women to do those things but that, when those factors are present, a significant section of society is prepared to blame the victim, not for the way in which she acted but for the crime that was perpetrated against her. For as long as society is prepared to blame the victim, we cannot begin to hope that it will blame the perpetrator, whatever the law may say.

**Elaine Smith (Coatbridge and Chryston) (Lab):** Will the Lord Advocate take an intervention on that point?

**The Lord Advocate:** I have a great deal to say. I will take the member's point later.

The Scottish Law Commission's proposals seek to challenge existing norms by creating a greater focus on the responsibility of the accused to demonstrate what steps they took to establish that

there was consent and by proposing statutory indicators of situations in which consent will not apply. Those important proposals suggest one means of mitigating the impact of unfair value judgments about the complainer.

I will take Ms Smith's point now.

**Elaine Smith:** I apologise—I have to attend a meeting and so I cannot contribute to the debate.

Does the Lord Advocate agree that the rape of women by men is an act of violence and the abuse of power and that it is predicated on women's subordination in society and on discrimination? How can attitudes be changed alongside the legal changes that have been proposed? In particular, will the Lord Advocate consider the need to prosecute men who buy sex from trafficked women, as they are in fact raping them?

**The Lord Advocate:** The answer to the first question is clear. Sexual offending tends to be the exploitation of power. It is about the abuse of power in relation to the victims, be they female or male. In most cases that are reported, they are female, but there are also many exploitative abusers of young boys and men in society.

I notice that a party of schoolchildren is coming into the chamber, Presiding Officer. The nature of the subject matter is such that it might not be appropriate for them to hear certain things that are to come in my speech.

**The Presiding Officer:** I will consider that while you continue, if I may.

**The Lord Advocate:** On Ms Smith's point about those who have been trafficked, in circumstances where someone has been abducted and there is clear evidence that there is an absence of will or consent, the offence would amount to rape. The question is one of proof and one of degree in fact and circumstance. The matter would have to be considered exceptionally carefully, however, to ensure that such evidence was available. In such cases, it is a matter of proof and the extent of the absence of free will or consent. I am sure that the matter will be raised later in the debate.

**Margo MacDonald (Lothians) (Ind):** Further to that point—

**The Lord Advocate:** I will take Ms MacDonald's point later.

The commission's proposal is important and the Parliament must consider it with great care.

Equally important is the commission's proposal to define consent as free agreement. Ms Smith's point is important in that regard. It might not sound a startling proposition to state that consent must be based on reasonable belief, but it is a significant change from the current position in law, which is that a defence of consent requires an

honest belief by the accused regardless of how reasonable or otherwise that belief is.

I have stated on numerous occasions—most recently at a conference this week—that we operate within one of the most restrictive legal frameworks in the world. I was reported in the media yesterday as suggesting that our laws on rape are the worst in the world. Let me be clear. My view has been and remains that profound reforms to the law of rape in Scotland have already been achieved by our courts. A testament to that is the appeal court decision in 2001 that provided the current definition of rape—a definition that recognises a woman's absolute right to sexual autonomy.

In giving his opinion, the then Lord Justice General, Lord Cullen, set a clear vision of what the law should seek to protect. He said:

"It may be said with considerable force that it should seek to protect a woman against the invasion of her privacy by sexual intercourse, that is to say where that takes place without her consent. What happens with her consent on one occasion should not determine what is acceptable on another. In the present day, in which there is considerable sexual freedom, both in and out of marriage, should the law of rape not support the principle that whether there is to be sexual intercourse should depend on whether the woman consents, wherever and whenever she pleases?"

The power of the courts alone to effect comprehensive law reform is limited, and the pace of change is slow. The courts cannot bridge dramatic gaps in law, which are more properly for the legislature to address, and neither can incremental, case-by-case change effect wholesale law reform. However, I am in no doubt that the decisions of the courts in Scotland have set a clear vision of what the law of rape should seek to protect and have signalled the need for a new era of enlightenment in the Scottish legal system's response to rape.

At present, we have one of the most restricted definitions of rape in the western world. In my view, we cannot provide a modern response to rape when the law that defines it does not recognise as rape a multitude of sexually invasive and degrading acts that are perpetrated against women and men without their consent. The result is that comparisons of conviction rates throughout Europe appear to reflect poorly on conviction rates in Scotland, but they are fundamentally misleading. A wide range of sexual offences are defined as rape in other jurisdictions, but the definition in Scotland represents only a narrow and particular aspect of criminal conduct.

The commission's proposals bring into prospect laws in Scotland that recognise as rape the wider forms of sexual abuse that other jurisdictions have recognised as rape for decades. Widening the definition to include anal and oral penetration by the penis and recognising for the first time male

rape, as opposed to the common-law offence of sodomy, will bring Scotland into line with England and Wales and many other jurisdictions in the world.

The Parliament will wish to consider whether the definition of rape should be broader still. In some jurisdictions, the definition is not restricted to penetration by the penis but includes penetration of the vagina and the anus using other objects. As a prosecutor, I have seen cases involving the most brutal and humiliating violation of women and men caused by the forced insertion of implements. Although such acts are not classed as rape in Scotland, they involve the most violent forms of sexual violation. In reforming the law on rape, the Parliament needs to consider to what extent it should encompass the most serious forms of sexual violation in all their guises.

However, we must be clear that no single factor prevails in Scotland to affect the rates of attrition and conviction. Many variables interact to determine our collective success in responding to rape, which is by its nature a difficult aspect of criminality to prove. It takes place in private, there are rarely any injuries, and in many circumstances both the complainer and the accused are intoxicated.

The report marks the start of important and appropriate reforms of the substantive law. However, the substantive law is only one part of the equation because, as we know, the principal feature of our legal system in Scotland, which sets us apart from every other jurisdiction in the western world, is the requirement for corroboration. Despite the storm that I might have created with my speech earlier this week, which will be in the Scottish Parliament information centre today, members will be pleased and relieved to hear that I am a firm fan of the concept of corroboration in Scots law. However, I consider that it is necessary to examine its impact and to understand and analyse the effect that it has in the area of rape and other sexual offences, and I am therefore pleased that the Cabinet Secretary for Justice has now asked the Scottish Law Commission to examine the law of evidence, including corroboration.

When applied to crimes that happen almost exclusively in private, the rule requiring corroboration in Scotland sets a significant hurdle for the prosecutor to overcome before even contemplating a prosecution. We know that almost one third of all reports received from the police are marked for no proceedings at the outset. The most common reason for not proceeding is insufficiency of evidence in law to prosecute.

I look forward to the results of the Scottish Law Commission's review of the Moorov doctrine, and acknowledge that the concession that it makes to

the requirement for corroboration is crucial, but it is limited and does not yet recognise that, in many cases where a perpetrator preys on multiple complainers, he does so in a family setting and sometimes for several generations, spanning a period of 20 to 30 years. That aspect of corroboration and the relief against it should be considered by the commission and the community at large. It is not for me as a prosecutor to move the goalposts for the law of evidence. That would be entirely inappropriate, disproportionate and unfair.

Any move to remove the requirement for corroboration would be controversial and rightly so. The requirement might be regarded as a substantial challenge for the prosecutor, but it is equally regarded as an important safeguard for the accused, ensuring that where convictions are achieved in Scotland, they are secure and resilient to challenge. Any alteration would need to be considered with the greatest caution, but if we are serious about reforming the law in this area, the question is at the heart of the debate and we cannot avoid it. If we are to retain the requirement, we, as a community, must be satisfied that it continues to serve an important function in our legal system, and Parliament and the community need to acknowledge and accept that it will inevitably continue to limit the number of cases that can be considered for prosecution and lead to a conviction. That debate is for the future, once we have the benefit of the commission's proposals for reform of the law of evidence.

Although it is essential that the substantive law and the laws of evidence provide us with a sound framework, we must never lose sight of the importance of the work that we in the justice system and beyond must undertake to improve our collective response to rape.

Within the Crown Office and Procurator Fiscal Service, we are working hard to implement the 50 recommendations for change to the way in which we respond to sexual crime that I announced to the Parliament in 2006. That work will ensure that by summer 2009, only prosecutors who have been trained and approved according to the highest standards of competence will undertake the investigation of sexual crimes. Dorothy Bain QC, one of Scotland's most senior and skilled prosecutors, has agreed to work closely with police and prosecution staff as part of the procurator fiscal's Lothian and Borders area sexual offences team, with links to the Amethyst Centre. As the specialist prosecutor for the Lothian and Borders team, she will ensure that investigations in serious sexual offence cases are, from their earliest stages, informed by the experience of those who prosecute in the High Court. She will also make recommendations to the Solicitor General and me on how to build on the

recommendations of the review by identifying what further role Crown counsel might play in the model of specialism that we are developing.

The Parliament is now charged with scrutinising proposals to reform the substantive law. We have an unprecedented opportunity to determine what the law of rape and sexual offences should seek to protect. As the Parliament moves to scrutinise the proposals, it is critical that the experience and expertise of all those who deal with these matters, including the defence, the judiciary, and those representing victims of sexual crime, are involved and inform the decisions that are taken.

If we are to effect real and profound change in the law, we must ensure that what we do now is right. If we move to redefine the law of sexual offences in its entirety, we must be certain beyond reasonable doubt that we are making change for the better. The approach must be considered, rational and modern.

I warmly welcome the opportunity to debate how we can best improve the Scottish legal system's response to rape and other sexual offences. I hope that many debates will take place as a result of these proposals and that they will be wide-ranging, balanced and outward looking and, most of all, will remain focused on improving our response as a society to those who experience rape and other sexual crimes, while always maintaining a fair system of prosecution for those accused of sexual crime.

I move,

That the Parliament welcomes the publication of the Scottish Law Commission's final report on the law on rape and other sexual offences and supports the Scottish Government's announcement that it will bring forward legislation to reform the law on rape and sexual offences in light of the consultation on the commission's findings and proposed draft bill to ensure that Scotland has a modern and robust framework of laws in this area.

09:59

**Pauline McNeill (Glasgow Kelvin) (Lab):**

Labour welcomes the long-awaited report from the Scottish Law Commission on the reform of rape and sexual offences law. The report is good and we thank the commission for its hard work on a difficult job. I believe that the commissioner, Gerry Maher, is in the gallery and I welcome him to the debate.

The Labour amendment calls for adequate time to scrutinise the bill when it is published. As the Lord Advocate said in her excellent speech, the report deals with complex legal issues and, as it took the commission about three years to make its proposals, the Parliament should have enough time to scrutinise their complexities.

Whatever else I say this morning, it will not be as important as what we do about changing the

attitude of the public to women who are raped. Rape is an abhorrent crime, and it is part of the continuum of violence against women. It is tried in our highest court and I hope that there is a commitment that it always will be.

We know that juries can be reluctant to convict in cases in which alcohol has been consumed by both parties, or where a degree of intimacy has already been established. There are so many cases like that in our High Court, but the old adage still applies. When a woman clearly says no to sex, she means no, and no matter how intimate she has been with the accused, the fact that she has had too much to drink should not make any difference; the law should protect her. When she is so drunk that advantage can be taken of her state, there can be no consent to sex, even if her state is self-induced. I commend Rape Crisis Scotland for the work that it has done, because it is so important to tackle public attitudes to this abhorrent crime.

I preface my remarks by saying that mine will not be Labour's last word on every point. There is a lot to think about so I regard my speech as expressing our opening views.

Labour has no difficulty with supporting the report's proposal to broaden the definition of rape to include men or women who are raped; we will welcome that change to the law, and we are content that other forms of unwanted physical penetration should also be defined as a crime. We are also broadly happy that there should be a separate definition of sexual assault, notwithstanding the Lord Advocate's comments this morning. Sentencing should continue to be appropriate to the circumstances of both crimes.

The Scottish Law Commission's remit was primarily to resolve the issue of consent in rape cases, although it had a wider remit to do other things. Labour is a bit concerned that the commission's proposal to change the law as it relates to children and to cut to 13 the age in respect of what is, in effect, statutory rape might send out the wrong message. I simply say that we want to discuss that issue further.

On consent, the concept of free agreement seems to be clear cut and to strike the right balance. It is a phrase that the public can understand. In rape cases, it is crucial that the law is clear. We need to think about the ordinary person sitting on the jury and what they will commonly understand by the term "consent", so I welcome the commission's suggestion.

This week, the Parliament and press have had a lot of debate about Scotland's low conviction rate. I agree with the Lord Advocate that we cannot easily compare Scotland with other countries whose systems are not the same as ours. They

might use different definitions, and some countries do not have juries, or have a different jury system. I agree that we must see our unique system in the Scottish context and choose the right course for Scotland.

I do not agree that we have the worst system in the world, although it needs to be substantively reformed. It would be wrong not to acknowledge the strengths in our system. There are mixed views about the use of the section 275 procedure, under which a judge decides whether evidence on sexual history or character can be allowed. On the one hand, defence lawyers say that they cannot get the relevant evidence into court, even when they think that that prejudices their client. On the other hand, Rape Crisis Scotland believes that judges are allowing all such evidence regardless of whether it is relevant. We have to get to the bottom of that issue, because the Sexual Offences (Procedure and Evidence) (Scotland) Act 2002 was well intentioned and was meant to be used to the victim's advantage. I call for an examination of the section 275 procedure before we make a final judgment on whether it does what we intended it to do.

The Vulnerable Witnesses (Scotland) Act 2004 is important in rape trials. We removed the right of the accused to conduct their own defence, which was another important step in handling rape cases. A jury can convict with a minimum of eight jurors, and a life sentence can be imposed, so there are some important aspects of our current law.

Given the number of cases that we decide to prosecute, it appears that perhaps not enough result in a conviction. That seems to be a concern, but we should start by getting the law right, not by saying that our conviction rates are wrong. Rape is an unusual crime, as the Lord Advocate has said, in that there tends not to be a witness and, until the evidence is led, the jury does not know whether a crime has been committed. In most cases, the outcome of the case turns entirely on the question whether the sexual act was consented to.

Whom the members of a jury believe is the determining fact in ascertaining whether a crime has been committed—that is the fundamental issue that we must address alongside reform of the law. We must be sure that we interrogate the system in the context of such facts. We need to know where the problem in getting a conviction lies. The view now is that a change in the law will provide clarity, but it will not necessarily affect conviction rates. As we redefine the crime of rape to include other things, the conviction rate for rape might increase, but the overall conviction rate for sexual crime will not alter a great deal. As I have said, the law must be clearer to understand,

because when juries are making their determination, it is important that they believe that the law is clear for them to apply.

I am glad that the Lord Advocate has addressed some of the issues that were raised in the press yesterday about the law of corroboration. She said that if we are serious about reforming the law, the rules of corroboration must be examined. I would be grateful if the Cabinet Secretary for Justice would clarify when he agreed to examine the issue of corroboration and where it is going, because I do not recall any announcement on it. I am aware that reference was made to the Moorov doctrine, but not to corroboration.

Corroboration is a unique concept in Scots law. The fact that two sources of evidence are required to prove an offence is an important safeguard for the accused in our system. I have strong reservations about unpicking a law that fits with the other checks and balances in our system, and it would be controversial to go down the road of watering down that requirement. Although I have no issue with a review of the Moorov doctrine, I have some difficulty with supporting a change in the law on corroboration in rape cases without some proportionate way of ensuring fairness for the accused—I am not clear about how that could be done.

I agree that the application of the concept of honest belief is wholly wrong. Whether the Scottish Law Commission's proposal for a slightly more objective test will be better remains to be seen, but it will have to be scrutinised closely to give us clearer law.

Scrutiny is needed of the proposal on advance consent in cases in which a couple have previously agreed to have sex and a question of consent later arises. I have serious concerns about whether the proposal is practical, and it will be an important issue for the Justice Committee to examine when the bill comes before it.

I whole-heartedly welcome this difficult debate about complex issues. It is important that we get the law right—we need clear law—but we cannot rely only on the law; we must tackle attitudes to men and women who are raped, and we must make it as easy as possible for juries to determine how to apply the law. I look forward to the publication of the bill.

I move amendment S3M-1490.1, to insert at end:

“recognises that the proposals from the commission are complex and that it is important for the Parliament to be given every opportunity to interrogate the bill when it is published, and therefore calls on the Scottish Government to aim at an agreement with the Justice Committee on a timetable which gives adequate time to properly scrutinise the bill.”

10:09

**Bill Aitken (Glasgow) (Con):** I welcome the debate, which is likely to continue for some months and, indeed, years, because we must get this particular legislation right. I also welcome the exceptionally helpful clarification from the Lord Advocate today, following yesterday's publicity.

I will deal with three principal issues, although there are other important matters—for example, the involvement of children, which Pauline McNeill raised. The three main issues are consent, the extension of the law and the rules of evidence and corroboration.

As we know, rape is a very difficult crime to prove. I sometimes feel—and I know that this view is shared by others—that juries have considerable difficulty in that respect. There was a need to clarify the law following the Lord Advocate's reference in the case of Watt, but the situation is perhaps still not as clear to juries as it might be. The public perception of rape is of a woman who has been forced, possibly as a result of extreme violence or threat of violence, to have sex with an individual. Of course, that is rape, and juries' attitude to that is quite clear. It is easy to make a determination. So-called stranger rape usually results in a conviction, but so-called date rape is much more problematic.

The Scottish Law Commission's report, by including the requirement for consent to be demonstrated, makes that much easier, and it is very helpful. The examples that it cites cannot be exhaustive, nor are they intended to be, but it is a good framework from which to proceed. The Lord Advocate raised the issue of women's risky behaviour, and quite properly so. If I leave my car unlocked with the keys in the ignition, I might be a very silly chap, but it does not entitle someone to steal my car. If a woman goes out scantily dressed, gets drunk and behaves in a flirtatious manner, she might be foolish, but that certainly does not entitle anyone to have sex with her without her consent. The definition of consent will be particularly helpful, and we must examine the way in which consent is measurable, particularly—as the Lord Advocate said—as heavy drinking is involved in so many cases.

The extension to the law is welcome. In these gender-neutral days, we must acknowledge the fact that homosexual rape should be defined simply as homosexual rape, and we will certainly support those changes to the law.

Not for the first time, I listened with considerable interest to the Lord Advocate on the other types of sexual assault that are not at present classified as rape and which certainly skew the statistics on conviction rates—I accept that. My initial argument had been that, providing that a suitable penalty

was in place, the definition of the crime did not matter particularly. However, having examined the matter further, I now have some sympathy with what the Lord Advocate has said today and what she has been saying for some time. The Justice Committee and the Parliament will have to consider the issue carefully—the insertion of implements into the anus and other parts of the body is certainly a very brutal assault.

The extension of the definition of rape to include sodomy is entirely appropriate. I ask members to picture the scene of a woman who is alone in a house and is confronted by two intruders who might have broken in for the purpose of assaulting her or purely for the purpose of house breaking, after which they decide to assault her. If that woman is physically beaten and repeatedly sodomised, there can surely be no worse experience that anyone could suffer, yet, as the law stands at the moment, that is not rape. I think that there is a unanimous view among members in the chamber that the law should be extended in that respect.

I turn to the rules of evidence and the requirement for corroboration, which has been a matter of concern. Scots law has long recognised that rape cases are difficult to prove and that many such cases would be downright impossible to prove if the normal standards of corroboration were applied. As such, the law has been clarified and extended over the years, which is entirely appropriate, as it would be difficult to get the corroboration from two eye-witnesses that would be necessary in relation to any other assault.

I fully understand and sympathise with the frustration that prosecutors inevitably feel when cases cannot be proved or even proceeded with at all. However, suggestions—and I note that they do not come from the Lord Advocate—that the law in that respect should be radically changed are fraught with danger. The function of any justice system is, in equal measure, to protect the innocent and to punish the guilty, and we must consider why the requirement for corroboration is viewed as such a vital component of Scots law.

The requirement for corroboration is a bulwark against injustice where false evidence is given. It defends the poor against the rich and the inarticulate against the articulate and, in many cases, it protects society's most disadvantaged, whose ability to give coherent evidence may be limited. Those who suggest that a wholesale change in the law of corroboration is necessary must realise that there would be a real, albeit unintended, consequence: a significant increase in miscarriages of justice would be inevitable. Most members and the general public would be profoundly uncomfortable with that happening. That must be remembered.

I have listened to the arguments about the Moorov doctrine. There is validity in what has been said, which must be carefully considered, and it was not inappropriate for the cabinet secretary to refer the matter back to the commission. Real considerations are involved and there are real arguments to be made. I commit the Conservatives to listening to those arguments exceptionally carefully. Like Pauline McNeill, I would have serious difficulties with a change unless someone suggested additional checks and balances, which would be necessary in our legal system.

The law required clarity, which the Scottish Law Commission's report gives us. It is highly likely that the report will be closely examined, analysed and digested in a complex but interesting and important parliamentary process, and it is highly probable that some of its proposals under the headings that I have mentioned will be changed during that process. That would be appropriate. However, I congratulate the commission on the report, which takes a sound, professional and, above all, reasonable approach that gives us every opportunity to do what we all seek to do: not only to clarify the law, but to support the victims of one of the most horrible crimes that can be committed. I fully commit the Conservatives to giving the matter our fullest earnest and sympathetic consideration.

10:17

**Margaret Smith (Edinburgh West) (LD):** I welcome the Scottish Law Commission's final report on rape and other sexual offences and the consultation on its findings. The proposed legislation and the on-going review of evidence give us an opportunity to define and redefine new rape and sexual assault offences, to balance the rights of victims and accused people, and to modernise our law in the area in a way that recognises individuals' sexual autonomy and the need to have legislation that gives people equal protection, irrespective of gender or sexual orientation. To do that properly requires time, so we are happy to support the amendment in Pauline McNeill's name.

Scotland has one of the worst conviction rates for rape, notwithstanding the fact that the offence may be too narrowly drawn, that there is widespread underreporting of sexual offences and that the task that the previous Executive set the commission was far from easy. Victims of rape or sexual assault can experience physical, emotional and psychological damage that can last for many years—indeed, it can last a lifetime. For many, the experience of rape is compounded by their experience in the justice system. However, we cannot forget that false accusations that those

most despicable of crimes have been committed can also destroy lives.

The fact that more than 1,000 rapes were reported last year alone is shocking. Rape Crisis Scotland has told us that it saw 2,500 victims, but it has estimated that there were actually 7,200 attacks last year, which indicates that the reported total is the tip of a disturbing iceberg.

Rape stands alone in how we as a society denigrate and blame its victims. If a young man is stabbed in the street, we do not hear people say that he asked for it because he had had too much to drink or because he had drifted into a part of town that he did not know well. However, we have heard yet again in the past few days that around a quarter of people think that women are asking to be raped or assaulted if they drink too much, act flirtatiously or wear revealing clothing. Those attitudes need to be challenged. Justice will never be served properly if 25 per cent of a jury think that the victim is to blame before the proceedings go any further and the jury hears evidence and starts its deliberations.

We welcome the work that the Lord Advocate and the Crown Office have already done. We agree that there is a need for enhanced training and guidance for those who are involved throughout the justice system in dealing with rape and sexual offence cases. Also, we welcome the work that is being done by the Association of Chief Police Officers in Scotland to try to standardise the response to rape across the eight police forces. I pay tribute to the great work that our forces have done over the past few years in that area.

Improvements to and clarity in the rules of evidence and the legislation that covers rape and sexual offences must be at the heart of progress. The Lord Advocate has expressed concern that substantive law changes alone are not sufficient to tackle the conviction rate problem. Such comments may be controversial, but they were well made.

There is a need to review issues relating to corroboration, the Moorov rule, the manner in which victims are cross-examined about their character and sexual history, and the use of information about previous convictions. However, such a review must be set against the absolute need for a fair trial. I think that Pauline McNeill and Bill Aitken said that moving away from the requirement for corroboration is fraught with great difficulties, and that doing so might lead to a greater number of miscarriages of justice. We welcome the fact that the Scottish Law Commission is considering Scotland's laws of evidence in prosecuting all offences without losing sight of the peculiar difficulties that are inherent in prosecuting crimes such as rape that are unlikely



to be carried out in public and witnessed by others.

There is a great deal to welcome in the draft bill. It is right to try to address the lack of clarity about the key issue of consent, and we welcome the commission's suggested definition of consent as "free agreement". We welcome the fact that an accused will have to justify his belief as a reasonable belief that a woman had consented, and the clear setting out of seven scenarios in which consent is clearly absent, including when victims are intoxicated, is useful. However, we should bear in mind the fact that such a list is clearly not exhaustive or devoid of problems of interpretation.

The commission's recommendations acknowledge that sexual contact without consent should be illegal even if consent for sexual activity has been given on other occasions. I wholeheartedly reject the view that there should be a difference in law between rape by a complete stranger, so-called date rape and sex without mutual consent with an existing partner. The belief that it is somehow less horrific or criminal to force sexual contact on a person against their will because of an existing or previous relationship with them is absurd.

I welcome the widening of the definition of rape so that it will include the oral and anal rape of a woman or a man. Bill Aitken gave one example of why widening the definition is right. Such clarification is an important part of addressing the discriminatory nature of existing laws and brings us into line with England. I agree with the Lord Advocate that the use of an implement against someone can be as horrific as rape. I hope that the Justice Committee will consider that matter in due course.

It is vital that the laws on rape and sexual offences are not only clear to the people of Scotland but relevant to our society. Much of the current legislation was passed when attitudes were very different. Modernisation of the existing legal framework is crucial to ensure not only that our laws do not support prejudice, but that they afford equal protection to men and women. The current laws often mean that there are much lesser penalties for sexual offences against men or boys, for example, although such offences are no less horrific for their victims. The existing law in relation to transsexuals is also unclear, and it uses outdated and offensive terminology in relation to homosexual activity between men. We welcome reform in those areas.

We also welcome the commission's approach in classifying sexual offences laws into three types of law: laws that cover sexual assaults, laws that protect children and other vulnerable people, and laws that protect public morals. We believe that

the general direction of the draft bill, which includes the new offences of rape against children and rape against people with a mental disorder, is to be welcomed.

However, there is one particular area of concern. I expect that the Justice Committee will have to work through several issues to do with the proposals relating to older children, aged 13 to 15. I have concerns about what I have read so far. It is essential that we protect our children who are at a particularly vulnerable stage in their sexual and emotional development. We must balance protection and pragmatism, and we must deliver a system of rules that is clear to young people, parents and the police.

As I said previously, many people never come forward to report a rape or other sexual assault. One of the reasons for that is the widespread view that complainers are subjected to gross invasions of their privacy when they give evidence in court. A great deal of public concern remains about that. Despite the fact that the Parliament has already legislated on the issue, in the Sexual Offences (Procedure and Evidence) (Scotland) Act 2002, recent research has shown that seven out of 10 complainers in rape trials are asked about their sexual history or their character. The legislation was meant to protect the complainer's dignity and privacy and—crucially—to ensure that relevant evidence was led.

We appreciate the need to ensure that an accused can mount the best possible defence and receive a fair trial. However, will the minister reassure us that that aspect of the law remains under review and give us his view as to why it continues to be an issue? Is it because the law is defective or because of the way in which the law is being interpreted in situ?

The Liberal Democrats look forward to seeing the consultation responses and the bill in due course. We will work constructively with the Scottish Government and others inside and outside the Parliament on this important and challenging area of criminal justice.

10:25

**Shirley-Anne Somerville (Lothians) (SNP):** I welcome the final report from the Scottish Law Commission and the commitment from the Scottish Government to bring about much-needed reform of the law on rape and sexual offences. Credit is also due to the previous Executive, which instigated the wide-reaching review in 2004, when some high-profile cases highlighted ambiguities in the Scottish legislation that needed to be tackled quickly.

The statistics on rape and sexual offences make grim reading and serve as a wake-up call to

anyone in Scotland who may become complacent about justice, human rights and equality in our modern democracy. The battle has clearly not been won. Given the increased public awareness of the crime of rape, the emergence of victim support services, strong action from women's groups and legal changes to end discriminatory practices, people can be forgiven for having expected to see an increase in the reporting of rape accompanied by a rise in the number of prosecutions and convictions over the past few decades. However, that has been far from the case.

The number of reported rape offences has grown by 230 per cent over the past 20 years, but an increase in reporting has not led to a higher number of cases being prosecuted. Indeed, only approximately 10 per cent of rape reports make it to court—a figure that has been more or less constant over the same period—and the rate of convictions is decreasing. As has been mentioned, the current conviction rate in Scotland is only 3.9 per cent—an all-time low, and one of the lowest rates in Europe. The Scottish courts are clearly failing the victims of rape and other sexual offence crimes.

The proposed sexual offences bill will bring about necessary modernisation of rape and sexual offences legislation. Our country's law does not exist in a vacuum. Legislation on rape and sexual offences has developed in a cultural atmosphere of stereotypes, prejudices, misunderstandings and myths, and the proposed sexual offences bill is a positive step towards the provision of a clearer and more robust legal framework to deal with some of the issues.

I welcome the proposal to create statutory definitions of rape and consent, although questions remain about the detail of how the definitions will be implemented and whether there will be any loopholes. The introduction of a clearer and wider definition of rape and the definition of sexual assault as a crime that is no longer subsumed within the general assault law reflect changes in our thinking and understanding of those crimes. The Law Commission has also identified a shift in emphasis in the wrongfulness of rape from the historical position that it is an attack on a person's honour and value to the view that it is an infringement of a person's physical and sexual autonomy. I welcome those proposed changes to legislation as a reflection of more enlightened thinking. I also welcome the proposed abolition of redundant common-law offences, such as those that refer specifically to homosexuality, as an important modernising step to ensure that equality is enshrined in our law even if it is not yet enshrined in our society.

Although those developments are welcome, many contentious issues still need to be addressed, and I believe that improvements can be made to the proposed bill. Those improvements are vital, as I am far from convinced that the changes that have been proposed to date will be enough to improve significantly Scotland's dismal conviction rate for rape and other sexual offences. The need to re-examine the corroborative evidence that is required for rape cases must be considered. I was pleased to hear that the cabinet secretary has asked the Law Commission to conduct a review of the law of evidence in Scotland. As members have mentioned, that review is complex and controversial, and it will require difficult and far-reaching decisions to be made at its conclusion. Nonetheless, it is important that the issue is pursued.

It is difficult to provide corroborative evidence in cases of rape and other sexual offences and, as the Lord Advocate has restated, Scotland's law is among the most restrictive in the world in such cases. The victims of such crimes often fear that their accusations will be met with scepticism, and in Scotland that scepticism seems to be encoded in law through the need for corroboration. Any changes will, however, require careful consideration.

It is vital that we grasp the opportunity to improve the response of Scotland's judicial system to crimes of rape in other ways. Legislative changes in 2002 that were designed to curb the use of evidence relating to sexual history and character in sexual offence trials have proved to be counterproductive. The Sexual Offences (Procedure and Evidence) (Scotland) Act 2002 was passed with the best of intentions and was widely supported, but there seem to have been unforeseen consequences. As Margaret Smith has mentioned, sexual history evidence now seems to be introduced more frequently in the courts than ever before. Although further legislation in this area may not be the solution, I urge the cabinet secretary to carry out an urgent review into the matter, to determine whether the current legislation is the best way to tackle the problem. We must ensure that our courts do not continue to put women through such a distressing ordeal.

We must be mindful of the fact that changes to legislation are not enough. As Rape Crisis Network Europe confirms,

"legal reform and changes in the investigation and prosecution of rape have had little, if any, impact on convictions".

That is why it is important that work to update the law is accompanied by work to change the confused and prejudiced societal attitudes that remain towards rape and violence against women

in all its forms. It is shocking to read that 26 per cent of Scots—men and women—who were surveyed only last year thought that a woman bore some responsibility for being raped if she wore revealing clothing or if she had been flirting. It also does not bode well that a 2005 survey of young people's attitudes found that one in five young men believes that women often provoke violence. I therefore welcome the Scottish Government's announcement of funding for Rape Crisis Scotland to develop a hard-hitting information campaign to tackle those ignorant and destructive attitudes.

The Scottish Government's proposals are a positive step in the right direction, but there is still a lot of work to be done to change public attitudes and secure justice for the victims of these devastating crimes.

10:32

**Marlyn Glen (North East Scotland) (Lab):** I am pleased to take part in this debate on the Scottish Law Commission's report on rape and sexual offences. The report and the first-ever systematic review of the investigation and prosecution of sexual offences in Scotland are landmarks in the modernisation of Scottish law and the way in which those offences are dealt with.

To effect real and lasting change, all parts of the legal system must work together towards a common goal. We are taking part in a massive shift in policy and practice, and I trust that Parliament's scrutiny of the proposed changes will lead to clear and enforceable legislation. As we have heard, Scotland has a most restrictive definition of rape, which makes statistical comparisons difficult and, in some cases, meaningless. What are meaningful, however, are the experiences of victims and the secondary ordeals that they often have in court. There are urgent calls for reform, and the extension of the definition of rape is widely thought to be overdue.

At its excellent conference this week on legal responses to rape, Rape Crisis Scotland's emphasis was on redressing the balance—a balance that is tipped against women, as was recognised in the recent research that showed that a female victim of rape is seen by many to carry a share of the blame because of her behaviour, her way of dress or her drinking.

Although the law may need to be framed so that it is gender neutral as far as possible, it must not be gender blind—society is not. Vulnerable boys and young men must be protected as well as vulnerable girls and young women, but we need to take into account the very attitudes of society that we are striving to change—attitudes that, unfortunately, are held by many people, possibly including members of juries, as well as victims and

perpetrators. Sadly, those attitudes, perversely, mean that girls and young women may look up to and trust men who possibly are older and probably are stronger. The breach of such badly placed trust can mean for female victims that, on top of the trauma of rape, they run the risk not just of sexually transmitted infection, but of an almost certainly unwanted pregnancy. Equal opportunities is not about treating everyone in the same way, but about treating them appropriately to their individual circumstances.

Central to the proposed reforms are the essential principles of sexual autonomy and consent, which is defined as "free agreement". That is welcome. Also welcome is the considered, non-exhaustive list of factual situations that define when a person has not consented to sexual activity, including when the person agreed or submitted to the act because he or she was subject to violence or the threat of violence.

Parliamentarians need to consider many difficult and complex questions, such as whether the proposals cover or should cover women who are trafficked for prostitution. I accept that a fine balance must be reached between the gradual approach to change that is necessitated by the peculiar nature of law reform and the understandable impatience of women's groups in particular. However, a vision of a better future needs to be within our grasp.

I commend the poster campaign by Rape Crisis Scotland that depicts women in different scenarios with the caption, "This is not an invitation to rape me". I hope that it can begin to shift the attitudes that are prevalent in our society.

I draw attention to Rape Crisis Scotland's concerns about the report and pick out two areas. First is the idea of advance consent. I question how that squares with being able to withdraw consent. I also question whether free agreement can be possible in a situation of abuse or when the complainer has been trafficked for prostitution. I share Rape Crisis Scotland's concerns. As I have touched on only a few areas from the comprehensive report, I underline that it will take a great deal of time and consideration for all its proposals to be developed properly.

Changes in the law will be no improvement if convictions can be overturned. We need clear and enforceable legislation. However, as has been said, the debate on evidence is still to be developed. Scots law requires corroboration, which the Lord Advocate has described as a significant and often insurmountable hurdle that disallows around a third of reports from going to court. Consideration, at least, needs to be given to the Moorov doctrine to see that justice is served.

The report marks an important stage in a long process of reform of legislation, prosecution practices and support services. I hope that the cabinet secretary will note that continued political leadership is essential and that all areas require to be properly and consistently funded.

Equality is at the heart of what this Parliament stands for, and through its legislative programme the Parliament will change the lives of people in Scotland. The law review was initiated by the previous Administration, and I look forward to ensuring that the original vision is implemented by the new Administration.

10:37

**Gil Paterson (West of Scotland) (SNP):** First, I declare an interest as a board member of Central Scotland Rape Crisis and Sexual Abuse Centre. I pay tribute to the Parliament's continuing work on rape and sexual abuse. People look to the Parliament as it deals with such issues, and wish it well in its work as it develops. I support the motion and hope that the chamber will support the Labour amendment.

Although members have already highlighted the low conviction rate for crimes of rape, I will concentrate on that appalling record. It is worth saying that less than 4 per cent of cases that go to trial result in a conviction. That is 4 per cent of an already low number of cases that make it to court in the first place.

**Bill Aitken:** I am well aware of the member's close interest in such matters, but if he checked the figures he would learn that the conviction rate for the number of cases that go to trial is very much higher than 4 per cent. The last time that I checked, it was in the region of about 40 per cent.

**Gil Paterson:** Although I bow to the figure supplied by Bill Aitken, it does not alter what I will say. However, I will check the figures again.

No right-thinking person, whether a judge, policeman, lawyer or politician, should find acceptable or be relaxed about the number of cases and convictions. If the figures related to car thefts, house break-ins or some other crime, there would be a major inquiry and the public would want something to be done about it quickly, so why have we tolerated the rape law situation and why are the public not up in arms?

There are many complex reasons; I will touch on just some of them. Our system of law is out of balance. A rape victim—or a person alleged to have been raped—is almost treated like a person who is guilty of perjury, until the accused has been found to have committed rape.

Smart lawyers—by which I mean clever lawyers—whose job it is to get their client off, are

able and willing to bring before the court information about an accuser with the sole purpose of painting a picture that colours the jury's view as to why they are not to be believed. Worse still, the person's sexual habits, dress or views nullify any concept of justice for them. In other words, such lawyers tell the jury, "Look at what she was wearing. She had a good bevvv. She flirted with him and she had sex with more than one man, so she asked for it." Let us consider those points.

"Look at what she was wearing." I challenge members to look at what their female family members and friends, as well as young women throughout Scotland, wear. The hem-lines of their skirts are up to their armpits and their midriffs are bare. That is the fashion. It is how young people dress, whether we like it or not. It is how 75 per cent of our young women dress when they have a night out. Does that mean that 75 per cent of young females, including our family members, are asking to be raped?

"She had a good bevvv." Unfortunately, too many young people, both male and female, drink to get drunk rather than to have a social experience. Whether that is because of peer pressure or because it is cool to get blitzed, I do not know, but it puts them at greater risk from the predators, animals and cowards who seek out the weakest to attack. I fully acknowledge that fact and would like to see the end of that drinking trend. Nonetheless, the courts should offer no refuge or assistance to those who prey on victims. If a woman is paralytic and cannot or does not say no, how can it be judged that she said yes?

It might be said that she had a reputation. She might have had sex with other men, but so what? What does that prove? It proves that she said yes willingly to them; it does not mean that another man is entitled to rape her. It could also be that she said yes to someone with whom she was in a relationship, but the relationship ended. Does that mean that after she said yes once, the answer was yes for ever? Of course not.

If I could give advice to all those concerned, whether the police, the courts or the Parliament, it would be this: our rates for getting rape cases to court and obtaining convictions are, by any definition, appalling in the extreme, and we need to do something about it. We do not need to reinvent the wheel. Models exist that offer total protection and justice for the accused and give them the ability to defend themselves properly, while at the same time offering those who claim to have been raped the sure knowledge that their case will be heard and tried, and that they will be treated fairly and protected from the divulging of private and irrelevant information. Being able to deploy information to play deliberately to the jury's

prejudices cannot be right, and it must be changed.

When rape cases afford a proper balance in court between the accuser and the accused, the prosecution and conviction rates in Scotland will rise, and Scotland's justice system will be the winner.

10:44

**Margo MacDonald (Lothians) (Ind):** I join the debate because I want clarification on only one point that was reported in the newspapers during the week. The Lord Advocate will be pleased to know that I did not believe a word of what they said about her. However, I believed what I read about Rape Crisis Scotland's suggestion of what should be included in the proposed bill, which disturbed me, although I am not at all disturbed about the introduction of equality into the legislation, which is long overdue. I am interested in how corroboration will be maintained. The Labour Party is absolutely right that more time is needed to consider many aspects of the draft bill.

I want to speak in the debate because I do not believe that it serves any good purpose for Rape Crisis Scotland to suggest that we can tackle the problems that are additional to the ones that are traditionally associated with prostitution by saying that any woman who is trafficked should be considered to be raped. That would confuse several legal concepts.

**Gil Paterson:** Margo MacDonald is perhaps suggesting that it would be difficult to say that men who pay for sex unknowingly rape a person. However, I hope that the member acknowledges that, with trafficking, one way in which women are coerced and threatened on a weekly basis is by being raped by the people who possess them. Those folk should be dealt with severely.

**Margo MacDonald:** I thank the member for that information, of which I am aware—I abhor that situation as much as the member does. However, the same treatment can be meted out to young women who, for example, are groomed prior to leaving care homes. They might come from south of the border or from Dundee. That is what I was referring to. Trying to tackle one problem through a law that is designed to address another is usually flawed. In this case, that approach would be severely flawed. Many cases would fail if they came to court, because they would be wrongfully based.

Although I agree with Rape Crisis Scotland's intentions, I ask it to withdraw its request. I would like an assurance from the Cabinet Secretary for Justice that it will not be considered as part of the proposed bill. That is all that I have to say. I wish the proposed bill well.

10:47

**Helen Eadie (Dunfermline East) (Lab):** I support Pauline McNeill's amendment and all that she said. I welcome the consultation on the draft bill, which is published at the end of the Scottish Law Commission's "Report on Rape and Other Sexual Offences". I am glad that Labour in Scotland led the way in this area of social policy and that Jack McConnell, our then First Minister, set the agenda by directing the Scottish Law Commission

"To examine the law relating to rape and other sexual offences and the evidential requirements for proving such offences and to make recommendations for reform."

The aim of the proposed bill should be not only to amend the way in which the law defines sexual offences and rape, but to make a statement of the proper values that our society holds about the ways in which we regard sexual relationships.

Sexual offences are a worldwide concern. As the Law Commission report states, that is reflected by the fact that countries such as the United States of America, Canada and Australia introduced radical reforms decades ago. More recently, further work has been done on that aspect of social policy in the Australian Capital Territory, Victoria, South Africa and, somewhat closer to home, England and Wales. There is a wealth of information that we can draw on and use to make comparisons.

The debate focuses on the Scottish Law Commission report, which provides a critical opportunity to find out more about the outcomes of recent reviews and to consider whether the proposed legislation is likely to make a significant difference to complainants of sexual offences. That process will highlight the many issues that affect those who give evidence in rape and sexual offence trials and will involve examining different legal strategies for change. We should remember that Labour introduced the Vulnerable Witnesses (Scotland) Act 2004, which provides victims of sexual offences with assistance and protection that were not previously assured to them. I am pleased that the Law Commission report goes into detail on those and many other issues.

I have met victims of rape and sexual offences in my work as a member and have been most concerned to learn of the way in which some victims have been treated, with their lives and conduct, rather than the actions of the accused, being put under the microscope. To get a case as far as the court can be a real challenge. Many issues come to the fore, such as the gathering of evidence and the training of front-line personnel, not to mention the corroboration of evidence and the presence of witnesses, or lack thereof.

In speaking about evidence and training, I have permission to mention the name of my constituent Juanita Berry, who has been mentioned in Parliament before. Juanita was the victim of an attack and rape, but the police surgeon discarded the evidence. Members can imagine how Juanita felt about that. She did not even get near the courts because of that. However, I am pleased that, thereafter, the chief constable in Fife rapidly addressed the guidelines and training, so Juanita's case helped to inform the situation in Fife.

It must be of great concern to us all to note the very low percentage of reports of rape to the police in Scotland that lead to conviction. That has been mentioned. Concerns about the criminal justice response to women who report rape led to the establishment of two major reviews in 2003 and 2004: a review of the investigation and prosecution of rape and sexual offences by the Crown Office and Procurator Fiscal Service, and a review of rape and the criminal law by the Scottish Law Commission, both of which have now reported. The Crown Office and Procurator Fiscal Service is implementing 50 of the recommendations in its review, which will change how rape is prosecuted in Scotland.

Today, we are considering the Scottish Law Commission's draft bill, which aims to reform the law on sexual offences and is out for consultation. When I read the Scottish Law Commission's report, I was impressed that many of the people who responded to the consultation wrote in a private capacity, which perhaps underlines the public strength of feeling on the matter. Against the background of certain high-profile decisions by the High Court of Justiciary, we know that there is powerful concern from the general public as well as from professionals and academics throughout Scotland. However, that said, I am concerned about the sheer scale of the challenge that will confront my colleagues in the Justice Committee, who will in due course be tasked with taking the proposed bill through Parliament. The complexity of the detail and the volume of the concerns are somewhat daunting. It is vital that the time that is allocated for the consideration of the bill be carefully estimated—it would be a further injustice to our constituents if the work was not painstakingly careful.

In that context, our task as parliamentarians is to work with others to provide information on legal developments relating to the responses to rape and other sexual offences. We need to work closely with others who work in social policy and those who work with survivors of sexual violence to develop a greater understanding of the issues that face women who report rape and other sexual offences, with a view to inputting shared concerns into current legal developments.

I was interested to read that the Lord Advocate, in talking about the Crown Office and Procurator Fiscal Service review, said:

"the outcome of the review signals a major reform of the way in which the COPFS approaches the investigation and prosecution of rape and sexual offences."

She continued:

"implementation of the recommendations in the report will provide a sound basis to deliver an improved quality of investigation and prosecution. Our aspiration is to build strong, more compelling cases, while treating victims with the courtesy, respect and sensitivity that they are due."—*[Official Report, 14 June 2006; c 26626.]*

Pauline McNeill made an important point about the law on the rules of evidence and corroboration. I agree with her on that key issue, which requires further careful consideration. I trust the Lord Advocate—I know that she will consider that important issue carefully, with the best brains in Scotland. I trust my colleagues on the Justice Committee to come to the right recommendations.

The Scottish Law Commission said:

"we have decided not to make any recommendations as to reforming the law of evidence in relation to the offences"

that we are discussing. The commission gave two reasons for its decision, which I support. First, the commission thought that that aspect of the law is

"better suited for reform across the whole spectrum of criminal offences and not solely in the context of sexual offences".

Bill Aitken and Pauline McNeill mentioned that.

Secondly, the commission said that given the timescale for the project,

"the required detailed and thorough analysis"

of topics relating to sexual offences could not be made.

On behalf of my constituents, I thank everyone who was involved in the major and intensive work on the report and the draft bill. Labour thinks that such work is paramount, for the sake of victims of rape and other sexual offences. There is no more profound fear than the fear of such vile acts. Scottish Labour will stand up for the rights of victims of those crimes.

10:56

**Nigel Don (North East Scotland) (SNP):** Members will forgive me for saying again that as I am speaking late in the debate I will resist the temptation to repeat what others have said and instead try to address, or expand on, issues that have not been covered as they might have been.

I will make two points. The first, fundamental, point, which I do not think has been mentioned, is that we should be trying to create a legal

framework that will minimise the number of violations—the number of acts that we will subsequently decide are offences. We need to be careful when we talk about maximising the number of reports of offences and maximising convictions, although such outcomes are important and will derive from the legal framework that we create. We must bear it in mind that we need a society—and a legal framework within which society operates—in which the number of violations of a sexual nature is minimised.

I know that this cannot happen, but in Utopia we would develop a legal system in which there were no violations and therefore no prosecutions or convictions. We could reduce offending by moving the goalposts; for example, we could quickly reduce the number of speeding offences on our roads, not by eliminating the speed limit but by increasing it to 250mph. Shifting the goalposts does not help, however. If we want to slow people down we must ensure that the speed limit that we set is enforced and that people understand why it exists.

The appropriate legal framework will minimise the number of violations and it will maximise the tendency for victims to report offences and minimise the procedural impediments to achieving justice. It might help our thinking on the matter if we kept in mind that hierarchy.

The Scottish Law Commission's report contains a radical proposal, which would in effect change the balance of proof, so that the law required the accused to demonstrate consent instead of requiring the defendant to prove the absence of consent. I accept that that is a slight overstatement of the case and I am not trying to be too legalistic, but in effect the commission suggests that consent needs to be demonstrated.

My second point is about the definition of consent. The proposed term, "free agreement", does not offer the right way forward. Members will realise that I did my training on the other side of Hadrian's wall. I can still pretty much recite section 1 of the Theft Act 1968, which says:

"A person is guilty of theft if he dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it".

That definition of theft served pretty well until some folk nicked a painting from a church and subsequently managed to demonstrate to the court that they were only borrowing it. However, the definition would be useful if we had to teach our children the law of theft. Mercifully, we do not have to do so, because by and large people understand the law of theft, so we do not use the legal definition to teach children.

I mention that matter because society must find a way of teaching young people what is and is not

sexually acceptable. I do not in any way suggest that such an approach will help in the dreadful cases of serial offenders who have no interest in being taught anything—we know about those people, so that is not my point. However, if we—as parents, lawyers and, in particular, as teachers—are to guide our youngsters and teenagers to an understanding of what is acceptable and, therefore, of what the law on sexual offences says, it would be useful to have a working definition of consent that had value in that context.

The alternative definition of consent that the commission proposed is:

"positive co-operation in act or attitude pursuant to an exercise of free will, involving persons acting freely and voluntarily and with knowledge of the nature of the act in question".

Such a definition might make sense to members and I am sure that it makes sense to lawyers, but I respectfully suggest that it has no street credibility. The definition would not be much use to teachers or parents and would need to be refined. The important point is that it would not be much use to juries, either.

We need a framework of law that minimises the tendency for violations, maximises the tendency to report offences and minimises the impediments to achieving justice in court. To achieve those outcomes the law must be clear, enforceable and—crucially—well understood by the general public.

11:01

**Mike Pringle (Edinburgh South) (LD):** This is the third time in as many weeks that I have spoken in Parliament on a complex and emotive issue. I welcome the debate, which presents an opportunity for Parliament to begin to tackle a national shame.

Only one other nation in Europe has a conviction rate for rape that is lower than Scotland's. As Shirley-Anne Somerville said—and I think Gil Paterson meant to say—only 3.9 per cent of rapes that are reported to the police result in convictions. Why is that? Has there been analysis of the problem? How many people who report offences are discouraged from proceeding, perhaps because they are told that there is no corroboration or that when they go to court the lawyers will ask them all sorts of questions?

As Bill Aitken said, 40 per cent of cases that go to court result in a conviction, but that is not good enough, either. Why is the conviction rate only 40 per cent? Surely when a procurator fiscal examines a case, he or she considers whether a conviction can be secured. Surely procurators fiscal do not think that only 40 per cent of the cases that they refer will result in convictions; they

must be convinced that there will be far more than that. We must find out why such a small percentage of reported cases goes to court and why the conviction rate is only 40 per cent. I do not know whether anyone has carried out such an analysis, which might throw up interesting conclusions.

**Margo MacDonald:** Has the member considered that the attitudes of juries might determine the matter about which he asks?

**Mike Pringle:** I do not doubt that that is part of the problem and I will return to that issue. However, I maintain that analysis should be done in that area.

Progress has been made in some areas. Not long ago people who were accused of sexual offences were allowed to question their alleged victims directly in court. I am thankful that that inappropriate practice was ended by the Sexual Offences (Procedure and Evidence) (Scotland) Act 2002—the result of a bill that was introduced by Jim Wallace. My colleague Margaret Smith referred to the 2002 act, as I think did Shirley-Anne Somerville. However, the 2002 act is not working as well as it might. We have all heard of cases in which people have felt intimidated and, indeed, have ended up wrecks as a result of going to court. Margaret Smith has already asked the minister whether he has any comments to make on this issue and whether things can be tightened up.

I greatly welcome the new rape crisis line and the introduction of four new national rape crisis centres, which significantly increase the range of accessible support services for victims. In line with that, there has been a steady rise in reporting of offences from a mere 775 in 1999-2000 to 1123 in 2006-07. Although it is clear that a lot more needs to be done, such increased reporting is surely the first step to securing more convictions.

I agree with a point that was raised not only by Pauline McNeill but by Margo MacDonald in her brief speech. When I was a member of the Justice 1 Committee in the previous session of Parliament, I often felt that we did not spend enough time on some justice issues and that we were always being pushed to reach our conclusions far too quickly. The Justice Committee must be given a considerable amount of time to examine this issue—and if it thinks that it needs more time to examine and reflect on the proposed bill when it is introduced, it will need to be given it. We need to take the time to get things right.

The Scottish Liberal Democrats have long been in favour of a review in this area and welcome the report's findings as a solid basis on which to build. I particularly welcome the recommendations that are aimed at eliminating the so-called grey areas

in the current law. A simple tightening of definitions would provide far more clarity on which to build criminal proceedings in our courts, and the adoption of the protective principle and inclusion of non-consent scenarios in law would represent significant steps forward.

Like Pauline McNeill and other members, I echo the Lord Advocate's acknowledgement of the importance of corroboration, which is, after all, a fundamental feature of Scots law. We need to keep a close eye on that to ensure that we do not interfere with it. Moreover, given the report's recommendation that the issue be addressed as a component of criminal law rather than simply used in reference to sexual offences, the matter must be highlighted to ensure that the necessary investigations are carried out within that context. For too long, real improvements in rape conviction rates have been held back by legal technicalities and inadequacies. Now that this opportunity has arisen, we must thoroughly investigate every angle.

I said that I welcome the report's stance on enshrining non-consent scenarios in law. However, some pertinent questions, particularly on the prominent role of alcohol and drugs in the debate, still need to be answered. An issue, for example, that must be examined is the point at which drinking alcohol or taking drugs renders one incapable of making one's own decisions. What is the difference between lost inhibitions and loss of control, and can they be differentiated legally?

Margaret Smith mentioned Scottish Government research that was carried out in 2007, which found that 27 per cent of people thought that a woman was at least partially responsible if she was drunk at the time of an attack. In that respect, I was quite taken by Bill Aitken's image of leaving his keys in his car. His comparison was a good one; after all, no one has the right to take that car. It does not matter how a young lady chooses to dress when she goes out or whether, later on, she is drunk or flirting; no one has the right to attack her.

Marlyn Glen made a good point about consent: what, indeed, is it? A person might very well be quite willing to have sexual relations with another, but that person, whether male or female, might suddenly decide to change the rules and say, "Hang on a minute. I think we should do something different." If, at that point, the first person says, "Wait a minute; I don't like oral sex" but the other person pushes the issue, that is rape.

The law simply cannot afford to be unclear and confusing. Instead, it must provide a robust framework that is fit for the 21<sup>st</sup> century and which inspires confidence in the justice system—I am sure that the interesting points that Nigel Don raised in that respect will be taken on board. A



harrowing truth is that many rape convictions are lost because victims do not come forward in time, or fail to come forward at all. No victim should be dissuaded from coming forward to report such crime because they see the law as being unclear or unsympathetic.

We seek to strike an extremely fine balance: although new convictions cannot be artificially engineered through legislation, we need legislation that secures convictions where appropriate. At the same time, the accused's rights must be protected, but not at the expense of the victim's confidence in the justice system and not if it hinders the course of justice.

I fully support the report's well-measured recommendations, but we must remember that any legislative change must be carefully considered. We support the motion.

11:10

**John Lamont (Roxburgh and Berwickshire)**  
**(Con):** Today's debate has been very interesting and informative, and the wider debate, particularly on the law of rape, has also been very well informed. I also welcome the clarification that the Lord Advocate has given this morning of her position, given the reports in yesterday's press that many people have expressed concern about her intervention.

There is no doubt that reform in this area of law is long overdue and, given that academics and practitioners have been critical of the Scots law on rape for many years, we welcome the Scottish Law Commission's report and its conclusions.

The crime figures speak for themselves; indeed, it was partly the publication of the Scottish crime statistics in 2003 that led the previous Scottish Government to order the review. In contrast with recorded crime generally, which had fallen by 5 per cent over the same period, cases of rape and attempted rape had increased by 8 per cent. Moreover, only 10 per cent of reported rapes made it as far as court and, as a number of members have pointed out, the conviction rate in such cases has been extremely low. A series of court cases at about the same time that came in for criticism from legal commentators and the media was another factor in the drive for reform.

The Conservatives therefore agree that the law on sexual offences, particularly rape, needs to be examined to ensure that it is clear, gender neutral and—to quote the Law Society of Scotland—

“free of the various historical and other anomalies which have characterised this area of the law, for the benefit of both the public and those, such as lawyers, judges and juries, applying the law.”

I want to pick up on a few issues, particularly consent, that have arisen out of the proposals and this debate. The fact is that redefining this crime, important though it is, will not be sufficient to tackle all the issues that have been raised about the law on, and prosecution of, sexual offences. We need to consider other factors, such as the procedures that are adopted at trial, the law of evidence and the pre-trial procedures. I would be interested to hear the Cabinet Secretary for Justice's views when he winds up.

The essential element of a sexual assault, such as rape, is lack of consent. Under the current law, the consent element of the offence can either be considered as part of the *actus reus* of rape or as the *mens rea*, since the Crown must prove that the accused knew that the complainer was not consenting or was reckless about whether or not she consented.

As the McKearney case in 2004 illustrated, the fact that, unfortunately, there has been no legal definition of consent in the context of rape has created a number of problems. The draft criminal code provides that any consent that has been given by a person is to be disregarded if, when consent was given, it was

“induced by force or fear or was otherwise not freely given.”

In England, section 74 of the Sexual Offences Act 2003 defines consent such that

“a person consents if he agrees by choice, and has the freedom and capacity to make that choice.”

Under the Law Commission's proposals, the concept of consent in rape cases would be clearly defined in statute in two parts. First, there would be a general description of the meaning of consent, or what is called “free agreement”. Secondly, there would be a non-exhaustive list of situations, described by the Law Commission as “indicators”, in which consent would not exist. I will not rehearse all the situations in which the complainer will not have had the freedom to choose whether to agree to intercourse, but they are broadly similar to those that operate in England and Wales. However, the commission says that they are not so much part of the law of evidence as illustrations of the key element of the offence itself. The list is to be welcomed.

However, I am not convinced that the introduction of the statutory definition of consent will solve all the concerns and problems with regard to rape cases. For example, questions whether the victim has given his or her “true” or “valid” consent will remain, because the line between true consent and mere submission is not always easy to draw.

It has been suggested that it might be preferable to avoid the use of the word “consent” altogether and to focus instead on whether the accused has

had sexual intercourse with a person who did not have the freedom or capacity to choose, in the circumstances. Such wording would be similar to section 74 of the 2003 act. Commentators also believe that that would shift the focus of the trial from analysis of the complainer's behaviour to the accused's behaviour.

Discussion is also taking place on whether the legal burden of proof should be moved on to the accused. I am not sure whether that is the intention of the Law Commission's proposals and the issue will certainly require further thought. I am also not sure how such a proposal would fit with the European convention on human rights. Given the complexity of the problems, I welcome Pauline McNeill's amendment, which notes the need for Parliament to properly scrutinise the proposed bill.

I will conclude with a few remarks about the need for better education, about which the Lord Advocate, Bill Aitken, Margaret Smith and several other members talked. The figures from a study by Rape Crisis Scotland of 700 potential rape trial jurors are startling. Forty per cent of the potential jurors felt that women contribute to an attack if they put themselves in a risky situation, such as willingly going home with a man, and 20 per cent believe that women contribute to rape by wearing revealing clothes.

Given such attitudes, it is important that we support the police and anti-rape campaigners, who want to end the blame culture in which many members of the public believe that victims bring on attacks by being drunk, wearing revealing clothing or flirting. Everyone—men and women—must take on more responsibility for understanding what defines consent.

**Margo MacDonald:** I will just raise an intriguing point. If the way in which the style of dress can be provocative is not to contribute to being attacked—I agree that that is not an invitation to rape—what is the positive side of that negative instruction?

**John Lamont:** My point is that society needs to be much more widely aware of the matter. People need to understand that simply wearing a certain piece of clothing does not give people a green light.

The issue is not just creating new laws or defining crimes—I agree with the Lord Advocate on that. Rather than undermine key principles of Scots law, we should consider the wider issues of education and public awareness. We are therefore happy to support the Government's motion and the amendment in Pauline McNeill's name.

11:17

**Paul Martin (Glasgow Springburn) (Lab):** We have heard several powerful and thoughtful

speeches on what—as several members have said—is a very complex area of law. When we analyse the Law Commission's findings, it becomes clear that it has used its experience and knowledge of the subject to reach a comprehensive set of 62 recommendations.

We have highlighted a number of matters, but we should be well aware of the work that the Justice Committee will have to do to interrogate the 62 recommendations. The committee will, for example, have to interrogate carefully the recommendation that the offence of lewd and libidinous behaviour should be abolished and replaced with a more focused approach in legislation, and it will have to ensure that the law officers and the Cabinet Secretary for Justice provide information on that.

We should recognise the crucial role that the Lord Advocate has played in her current post and previously as the Solicitor General for Scotland in modernising practices in the justice system. That modernisation presents many challenges, as the Lord Advocate knows, but she has taken them on. The announcement by Frank Mulholland last month that the Crown Office will form part of a new dedicated sexual offences team in Lothian is an example of not just talking good practice but doing something to put in place good practice that people throughout Scotland will welcome.

At the heart of Labour Party policy are victims' rights and ensuring that the justice system supports victims of crime by modernising the system in respect of rape and sexual offences. We believe that such modernisation will send out the right message not just to victims but to perpetrators that we are willing to stand up to perpetrators' unacceptable actions and to take the issue forward. Like Gil Paterson, Labour members welcome the work of Rape Crisis Scotland and many other organisations that have played a crucial role in supporting victims over the years.

Pauline McNeill talked about providing clarity in the law. We need to ensure that whatever provisions we pass to provide clarity deal with attitudes to sexual assaults and that appropriate resources are in place so that cases can be prepared coherently and effectively. The issues to which the Law Commission's report refers will require practitioners with experience, expertise and back-up, if the proposed legislation is to have an impact.

In June 2004, the then First Minister, Jack McConnell, said:

"it is important that the ... Law Commission review cover all aspects of definition and proof in relation to sexual offences, and ... in particular ... that we maximise people's confidence not only in our courts—and in the sentences and prosecutions that are available to them—but"—

this is the important point that he made—

“in how the system deals with those who report ... offences.”—[*Official Report*, 3 June 2004; c 8896-7.]

Will the cabinet secretary ensure that the necessary resources are in place to implement the legislation that the Parliament passes? Our advocates on the front line must be able to deal with the additional responsibilities that are placed on them. That theme was clear from the Justice Committee's recent visit to the Crown Office. For any changes in the justice system, we must both ensure that additional resources are provided and consider reconfiguring resources that are in place.

Members will note that, in the amendment in Pauline McNeill's name, we have called for more time in the timetable. On reflection, and as other members have said, we have in the past not had the full opportunity to interrogate proposed justice legislation. The Law Commission took more than three years to produce its report and its comprehensive set of recommendations, as I said. It is important to do that work justice by interrogating the proposed legislation effectively. The Parliament will have a job in ensuring that that happens, because extending the timetable has always been difficult, despite members' determination.

I reiterate Pauline McNeill's comments about changing the law in relation to children. We need to be clear that changing the law concerns not just how the legislation is implemented, but the message that such legislation sends to society. I ask the justice team to consider that carefully in producing the bill and to give us every opportunity to interrogate that aspect. We say that in a co-operative and constructive manner to ensure that whatever is passed provides absolute clarity.

Pauline McNeill also talked about clarity being provided to juries. I am not sure whether such clarity will be achieved in full, because of the need for expertise, or whether juries will at all stages be completely aware of the legislation. Let us face it—the report contains 62 recommendations. What can we expect of our juries? We need to be clear about that. However, we should ensure that common knowledge can be made available to juries. Perhaps the cabinet secretary will elaborate on that issue, which can be discussed later.

Margaret Smith made a thoughtful and effective speech—I say to her that Labour members give out positive vibes. She drew a good, thoughtful analogy with society's attitudes towards the stabbing of a young man in the street, which amplified the concerns about society's attitudes towards rape victims. Bill Aitken also drew an effective analogy. However, it is not good enough for us to draw such analogies in the Parliament. It would be better in the long run for us to ensure

that we do something about the situation. That is the challenge that the Justice Committee will face.

The Law Commission's recommendations and the draft bill that it has produced mean that the Justice Committee has a great deal of work ahead of it. It will have a job to do in interrogating the draft bill, and Labour members will take that process very seriously. As Marlyn Glen said, the proposals for reforming the law on rape and sexual offences are groundbreaking and we look forward to ensuring that that work is brought forward in the Parliament.

11:26

**The Cabinet Secretary for Justice (Kenny MacAskill):** The debate has been thoughtful and helpful. We are happy to accept the Labour amendment. Pauline McNeill made the point—which Paul Martin and others echoed—that we have to get the law right. The Lord Advocate started out by saying that we have an opportunity to do that and that we must ensure that what we introduce is fit for purpose.

I echo other members' thanks to all those who have been involved in the process. In particular, I thank the Scottish Law Commission, whose significant work has allowed us to focus and will be the basis for the bill that the Government will introduce. We acknowledge that the Parliament is united in recognising that we have a problem, and we will seek to ensure that our proposals reflect the Parliament's will. We recognise that we are a minority Government but, perhaps more important, we also recognise that the Parliament is not divided on the issue. We are all on the same side, and if there are disputes over technical matters or matters of interpretation, we should seek to work them out rather than come at them from different perspectives.

Shirley-Anne Somerville correctly paid tribute to the previous Executive, and I put on record my thanks to my predecessor, Cathy Jamieson, whose reference of this area to the Scottish Law Commission instigated the review. She now has other responsibilities and is not present to contribute to or hear the debate, but we owe her a debt of thanks for driving the matter further forward.

I will comment on three preliminary issues that came up during the debate—obviously, other matters were raised as well. Members have recognised that we need to take a twin-track approach. This is not simply about changing the law; we must challenge and ultimately change attitudes in Scotland. Many members mentioned that issue, and I will come back to it. We must acknowledge that we should tackle it together, as I said, and the Government will seek to do that.

We recognise that the law in Scotland on sexual offences and a whole array of other matters is not fundamentally bad and has served us well for centuries. However, we need to address a particular problem in relation to rape and sexual offences—the problem is with the cases that are reported but which do not proceed to prosecution and with the ones that proceed to prosecution but which are ultimately unsuccessful. Whether the conviction rate is 4 or 40 per cent, the fact is that, at whatever juncture, we are failing some individuals, and we must seek to change that. That point also came out during the debate.

The Lord Advocate began the debate by acknowledging that problems exist and that we need to tackle attitudes as well as introduce new offences. Margo MacDonald and other members said that, sadly, sometimes juries reflect prejudices that exist in our society. Mike Pringle mentioned the perceptions that individuals have, and Gil Paterson commented on young women dressing attractively and being under the influence of alcohol. No means no—I think that Marlyn Glen and Elaine Smith made that point. No matter what the circumstances are, they do not legitimise rape.

We must challenge underlying attitudes if we are to move forward. The Government has made clear its support for Rape Crisis Scotland, to which many members have paid tribute in the Parliament. I echo those comments.

Elaine Smith, Marlyn Glen and others raised points about the trafficking of women, with which we have a particular problem in Scotland. The difficulty is that we know that something is going on, but we do not know the nature or extent of the problem or, sadly, who the main culprits are. However, the Scottish Crime and Drug Enforcement Agency is addressing the matter and I had a meeting with Vernon Coaker about it. The problem transcends the borders of Scotland and, indeed, the United Kingdom. The solution relies on co-operative working not simply on a pan-UK basis but on a pan-Europe basis, and we will work with the Home Office and with Europol on that.

I tend to take Margo MacDonald's view that simply seeking to bring in one law that relates to a particular issue will not address the more fundamental problem. We have to get to grips with and find out about the trafficking of women, and we are seeking to do that. Whatever perceptions exist in the Parliament about my inability to work with the Home Office, I assure members that we had a warm meeting with Mr Coaker. We made it clear that we support him on the matter and he advised me that he is off to Stockholm and Amsterdam to review the laws on prostitution in those jurisdictions. I have asked him to keep me involved so that we in Scotland can consider any information that comes to light from those cities. I

understand that Amsterdam is reviewing its position and considering the notoriety that it has attracted.

The points that members have raised on trafficking are valid, but the solution is not necessarily change to the law on rape. The fundamental problem is that trafficking is an evil crime that is part of the globalised world in which we live, and it needs to be tackled. I undertake to return to the matter.

We have to challenge attitudes. That is why the Government has committed funding to support the Rape Crisis Scotland adverts. As others have said—and as I said earlier—no means no. Simply being under the influence of alcohol and dressed attractively does not legitimise sexual assault or rape in any circumstances.

**Margo MacDonald:** I rather clumsily intervened on the closing speaker for the Conservative party on the question of judgment as to what is attractive clothing and what is provocative clothing. If clothing is provocative, whom is it designed to provoke and what is it designed to provoke? How do we advise juries until we have decided that question of taste and, perhaps, morality, on which we are bound to differ?

**Kenny MacAskill:** Margo MacDonald will well know the maxim that beauty is in the eye of the beholder: what some perceive to be attractive is viewed as distasteful by others. We must recall that we are dealing with individuals and that people have rights. Obviously, our society has standards and mores. As we have seen with difficulties in one individual's case, people are not allowed to venture forth naked on to our streets and highways. That does not mean that we cannot disagree about what is acceptable or unacceptable, but the statistics are quite clear: there is a problem with a small minority in Scotland—thankfully, it is a small minority, although it is still far too large—who perceive as provocatively dressed a woman who anyone else would describe simply as attractively dressed. That is not acceptable.

**Patrick Harvie (Glasgow) (Green):** Should we not ignore the question whether clothing is attractive or provocative? Those are subjective judgments and different people have different standards, values and mores. That is the problem with Bill Aitken's analogy. Leaving a set of keys in a car is a mistake, but someone choosing to dress in a way that entertains them, that they enjoy or that expresses their sexuality is a good, healthy thing and should not be judged. Should we not ensure that juries are instructed to ignore those matters?

**Kenny MacAskill:** To some extent, those questions are for a different debate on a different

day, but Patrick Harvie will find that juries are already instructed to ignore those matters. The problem is that some people in Scotland have an underlying prejudice, whether conscious or subconscious, which we must overcome.

It is clear that we must address the law with regard to consent. As far as the Government and I are concerned, the law has served us well, but there is a particular problem with definitions. We have to ensure that the law on consent is understandable not only to specialist lawyers but to everybody else. That is why there has to be a definition. People serving on juries and everybody else should have some understanding of the law.

Some areas of law will always be too complex for anyone but specialist lawyers to understand, such as information technology, media or construction law. However, some fundamental parts of the law should be clear. We have to ensure that our whole population—whether legally qualified or otherwise—understand the basis of consent and that simply being dressed a certain way does not constitute giving consent. Other problems arise when someone has not specifically said no because they are afraid or intimidated. All those matters have to be clarified.

Pauline McNeill was correct to raise the issue of how we deal with children and the under-16s, to which the report referred. We want to discuss that issue in the Parliament. We are happy to bring proposals before the Justice Committee and the whole Parliament and to see them through. I reiterate that the Law Commission has made it clear that the under-13s have no ability to consent and that any sexual relationship with them is entirely unacceptable; that always has been and always will be the case. It remains entirely unacceptable for males aged over 16 to seek a relationship with those aged between 13 and 16, except in the circumstances in which the male believed, or was misinformed, that the younger person was over 16.

However, we have to consider the situation, to which Margaret Smith referred, in which a 15-year-old boy has a sexual relationship with a 15-year-old girl. Do we criminalise that? Should a sheriff fine the boy? Should a fines enforcement officer deduct the fine from his pocket money? We are abolishing unruly certificates, so we are not going to send him to Saughton. However, as Paul Martin and Pauline McNeill said, that does not mean that we as a society should send the message that such behaviour is acceptable. We have to recognise that there are particular problems that we as a Parliament will have to address. The Law Commission has suggested that such cases should go to the children's panel. The individuals involved might be beyond parental control, or they might be deeply troubled and require to go to a

residential home. In some circumstances, they might even require to go to a secure residential unit. The Government is genuinely open minded about how to address such problems, which the whole Parliament must discuss. We are happy to engage in such discussion.

We must recognise that there is a dichotomy in relation to the law of corroboration. The Law Commission is considering the Moorov principle, about which issues were raised after the World's End trial.

**Pauline McNeill:** Has the minister referred the specific issue of corroboration to the Scottish Law Commission? If so, when did he do so? I would like him to clear up the matter. I am talking about corroboration, not Moorov.

**Kenny MacAskill:** The member will be aware that after the World's End trial, we considered a variety of matters, including the Crown's right of appeal, evidence of past bad character and the Moorov principle, which relates to corroboration. The Law Commission has long-term plans to consider corroboration. We have asked it to ensure that it considers the Moorov principle. It has indicated that it thinks that Moorov should not be considered only in relation to sexual offences, because it can apply in cases in which people steal cars or break into houses. It is correct to say that we should review Moorov in the context of the entire law of corroboration, not simply the law of corroboration as it relates to sexual offences. I hope that the commission will report on its findings on Moorov either later this year or next year. I certainly undertake to write to Pauline McNeill about the timescales involved.

If we are going to retain fundamental parts of the law of corroboration, we should remember that that will always mean that we are not capable of bringing proceedings against or convicting certain people. We have to set the calibration and strike a balance in that regard. I believe that corroboration is fundamental to the law of Scotland, although it will have to change as times move on. However, there will always be instances when we have good reason to believe that there has been a miscarriage of justice. I refer not only to occasions when the innocent are convicted, to which Mike Pringle referred, but to instances when the necessary evidence is not brought against those who should be living in black burning shame. We have to ensure that we get the balance right.

On the point that Paul Martin and Helen Eadie raised, the fundamental issue is how we treat victims of these heinous offences. The law has to ensure that they are treated with dignity and compassion. The Crown is moving matters on through work on the victim notification scheme, for example. That principle remains enshrined.

## Question Time

### SCOTTISH EXECUTIVE

#### General Questions

11:40

#### Midwife-led Maternity Units

**1. Jim Tolson (Dunfermline West) (LD):** To ask the Scottish Executive what support it is giving to national health service boards to set up and run midwife-led units. (S3O-2508)

**The Minister for Public Health (Shona Robison):** It is for each NHS board to plan and organise maternity care provision to meet local need and ensure that informed choice and a variety of care options is available to all women. We expect all NHS boards to ensure that all women receive the best available evidence-based care when and where it is required.

**Jim Tolson:** In response to a freedom of information request, NHS Fife has recently quoted the cost of providing a midwife-led unit in Dunfermline, which is considerably higher than the cost of an alongside midwife-led unit at Forth Park hospital in Kirkcaldy. Will the minister investigate whether more funding will be made available to ensure that such facilities are put in place at Queen Margaret hospital in Dunfermline as soon as possible?

**Shona Robison:** The member will be aware that from the outset of the "Right for Fife" review in 2001-02, NHS Fife has always planned to provide a community maternity unit in Queen Margaret hospital. The timetable for providing the unit depends largely on the transfer of other services between Victoria hospital in Kirkcaldy and Queen Margaret hospital. I know that the board remains committed to providing the unit within the timetable for its general hospitals and maternity project. We expect it to do so within the budget that it has been allocated. I am aware that the member has been kept informed of the developments that have been taking place.

**Ian McKee (Lothians) (SNP):** What encouragement is the Scottish Government giving NHS boards to organise the distribution of community midwives according to maternal and neonatal risk factors in particular areas rather than on a crude population basis, as is often the case at present?

**Shona Robison:** The member raises an important point. We would always expect such risk factors to be taken into account in the allocation of midwives, particularly in more deprived

communities, where there is greater need. I am certainly happy to write to the member to provide more detail on that.

#### Delayed Discharge

**2. Dr Richard Simpson (Mid Scotland and Fife) (Lab):** To ask the Scottish Government whether it is confident that it will reach Labour's target of zero delayed discharges from hospitals by the end of March 2008 in each local authority and national health service board area. (S3O-2547)

**The Minister for Public Health (Shona Robison):** All local authority and NHS partnerships are committed to eliminating all delays over six weeks by April 2008. We expect partnerships to continue to work together to ensure that that target is met.

**Dr Simpson:** I am sure that the minister will join me in congratulating the national health service on the excellent work that it has done over the past few years in reducing delayed discharges, which, by blocking beds, create major problems. Will she confirm that zero means zero only for those in hospital for more than six weeks? Will she give the Parliament an undertaking that the figure will remain at zero for the over-six-weeks delayed discharges and that the rise that has been seen by September and October each year will no longer occur? Finally, will she guarantee that in eliminating the longer-term, over-six-weeks delayed discharges, a larger number of short-term delayed discharges will not occur and there will not be a rise in the number of beds blocked?

**Shona Robison:** Once we have eliminated the delays, I want to see zero delays every day, not just on census day. I have certainly made that clear and I expect all partnerships to work together and put in place plans that will ensure that the zero target is sustained. From what I can see, that is happening locally. Yes there are seasonal fluctuations, which are a challenge in keeping the figure at zero, but from what I have seen of the local plans I am assured that plans are being put in place to avoid unnecessary hospital admission and for upstream services, which can help to ensure that we maintain the figure at zero. I assure the member that I will keep a very close eye on the matter.

#### Inequalities

**3. Johann Lamont (Glasgow Pollok) (Lab):** To ask the Scottish Executive what steps it is taking to address inequalities in Scotland. (S3O-2530)

**The Minister for Communities and Sport (Stewart Maxwell):** Our aim is to focus Government and public services on creating a more successful country, with opportunities for all

Scotland to flourish. We are therefore committed to tackling the prejudice and discrimination that lead to inequality in Scottish society. We will do that by mainstreaming equality across all Scottish Government policies, practices and services to ensure that our activities meet the needs of all the people we serve. The requirements of the public sector equality duties for race, disability and gender will support us in that process.

We will continue to support and develop the capacity for equality communities and groups to engage with policy makers so that they can understand their needs and experiences, to inform public policy development and service provision. The provision of robust data and evidence will help us to deliver policies that understand the issues and help to address inequality. We will raise awareness of equality issues and promote best practice in relation to challenging discriminatory attitudes. That is vital if we are to reduce inequalities and promote equality. We will provide support for activity that promotes equality and challenges unjust discrimination across all equality interests and we will work in partnership with a wide range of interests.

**Johann Lamont:** The minister will be aware that today is world book day. Earlier this morning, I had the privilege of sharing in the celebrations at St George's primary school in my constituency. Can the minister outline what progress there has been in supporting the right to read campaign, which ensures that those with visual impairment have access to the joy of reading? Will he outline what action he is taking to ensure that equality indicators are compulsory in the developing single outcome agreements? How will he ensure that the equality impact of the single outcome agreements is fully monitored?

**Stewart Maxwell:** I am happy to join the member in supporting the right to read campaign, which has a great impact on our young people, particularly primary school children. We want all our children to have access to the maximum education opportunities that literacy will bring to them as adults.

We are currently in negotiation with individual local authorities about the single outcome agreements. The results of that negotiation will be brought to the Parliament in due course.

Equality impact assessment is being carried out on a range of issues across the Government, as it should be. We assess the impact on equality groups of our individual policies. That will help us to develop policy that is responsive to people's different needs and enable us to distribute appropriately the resources that are allocated in the budget.

**Sandra White (Glasgow) (SNP):** Does the minister agree that the 2014 Commonwealth games present us with a golden opportunity to provide employment opportunities for some of the most deprived areas in Glasgow? Will the Government consider introducing special measures to achieve those aims? I am, of course, willing to meet the minister to discuss any proposals.

**The Presiding Officer (Alex Fergusson):** Under the subject of equalities, minister, you are more than welcome to attempt to answer that.

**Stewart Maxwell:** The question was about equality of opportunity for people who live in the east end of Glasgow.

The legacy paper that was published by the Government a few weeks ago will take forward our commitment to ensuring that the east end of Glasgow, in particular, as well as other areas of Scotland, benefits as much as possible from the work on the 2014 games. Part of the legacy of the games must be increased employment opportunities and reduced inequalities in the east end of Glasgow. We will be happy to work with all members across the chamber to ensure that that happens.

**Patricia Ferguson (Glasgow Maryhill) (Lab):** The recent budget addressed the extra demands that are being placed on the city of Edinburgh but, at the same time, the fairer Scotland fund delivered a real-terms cut in funding to the city of Glasgow, which is also faced with additional significant demands. Although levels of poverty, deprivation and inequality have decreased in Glasgow in recent years, the problem is still significant. Will the Government commit to follow through on the precedent that was set in relation to Edinburgh and provide additional funding to Glasgow in recognition of that city's special circumstances and particular inequalities?

**Stewart Maxwell:** I disagree with the member's comment about the fairer Scotland fund. It provides £435 million over the next three years to challenge directly some of the problems of poverty and inequality across our country. If the member does not support the idea of replacing seven different funding streams with one funding stream, thereby reducing the administrative burden on local groups that previously had to apply to many different funding streams to achieve the funding levels that were necessary to take on the work of tackling poverty in Glasgow and elsewhere, she is rather out of touch with the problems that those local groups faced.

#### **Free Nursery Places**

**4. David Whitton (Strathkelvin and Bearsden) (Lab):** To ask the Scottish Executive what plans it

has to change legislation that prevents children from accessing free nursery entitlement on reaching their third birthday. (S3O-2551)

**The Minister for Children and Early Years (Adam Ingram):** Entitlement to pre-school education was increased from 412.5 hours a year to 475 hours a year in the autumn of 2007 and it will increase further, to 570 hours a year, in August 2010. We are now starting to consider options to deliver the final step in achieving a 50 per cent increase by 2011. Options include starting entitlement from a child's third birthday or equalising entitlement so that all children receive six full terms of pre-school education before they start school. I will examine all the options to ensure that children in Scotland get the best start in life.

**David Whitton:** Excellent. I should give a loud cheer.

**Rhona Brankin (Midlothian) (Lab):** Steady—the Government has not done it yet.

**David Whitton:** Exactly. The devil is in the detail, and the minister gave us a lot of detail. However, I will not be churlish. My constituent, Alexis Stevenson, from Kirkintilloch, who is petitioning the Parliament for such a change, will no doubt be delighted to hear what the minister has just said, but I think that we will still continue with the petition.

Will the minister support the free from three campaign and sign up to the attempt to ensure that three-year-olds who were born at the wrong time of year are not penalised when it comes to accessing a nursery place?

**Adam Ingram:** As I indicated in my answer, we are looking at those very live options in order to complete the job.

### Wick High School

**5. Peter Peacock (Highlands and Islands) (Lab):** To ask the Scottish Executive whether it considers that Wick high school is in need of substantial refurbishment or replacement and, if so, what measures it plans to take to secure improvements to Wick high school. (S3O-2545)

**The Minister for Schools and Skills (Maureen Watt):** The Highland Council has statutory responsibility for the provision and maintenance of school buildings in its area. Questions regarding investment priorities for individual schools within the estate are matters for the council.

**Peter Peacock:** Over the past three years, Highland Council has undertaken the largest secondary school building programme for several generations. Unfortunately, Wick high school has not reached the top of that programme. This week, the parents council of Wick high school published

an extensive catalogue of the deficiencies in the school building. Will the minister agree to visit Wick high school to hear the parents' concerns at first hand? When can Highland Council expect to get extra cash from the Scottish futures trust to rebuild Wick high school?

**Maureen Watt:** I am aware of Highland Council's capital programme for secondary school refurbishments. Wick high school was on the council's original list of schools requiring refurbishment but was not included in the final list of 11. I understand that the highest priority is Thurso high school, followed by the unit for students with special needs at Nairn academy, and that joint third were Plockton high school and Nairn academy, with Wick high school next on the programme.

The member will be aware of the increased capital that has been given to Highland Council—£132.234 million from 2008 to 2011, including its share of the extra £115 million for 2008-09. Highland Council, like other councils, has been given a massive increase in its capital. It is up to Highland Council to decide how that is allocated.

**Jamie Stone (Caithness, Sutherland and Easter Ross) (LD):** At a packed meeting at Wick high school—I have here a copy of the article on it in the press—the chairman of Highland Council's education culture and sport committee, Bill Fernie, told us that the council does not have the resources for a new build. Wick high school should be on Scotland's conscience. Further to my written request that the First Minister come to see the school for himself, will the minister instruct senior Scottish Government officials to visit the school and come back with proposals about how a state-of-the-art school suitable for the 21<sup>st</sup> century can be fast tracked?

**Maureen Watt:** Officials are constantly in touch with all local authorities regarding their school building programmes. The member well knows that, as is the case with other councils, it is for the Highland Council to determine its priorities. It is not for the Scottish Government to intervene to decide on the council's priorities.

**Mary Scanlon (Highlands and Islands) (Con):** Wick high school was given the lowest rating possible for the current state of its buildings. At what point and against which standards can a school be deemed to be unfit and unsafe for the purpose of educating children? [*Interruption.*]

**The Presiding Officer:** Too many conversations are taking place round the chamber.

**Maureen Watt:** The member will be aware that the state of school buildings is a matter for councils to address, according to certain criteria. If the member wishes more detail on when a school



is deemed to be unfit for purpose, I will write to her about that.

**Rob Gibson (Highlands and Islands) (SNP):** The minister will be aware that the fabric of Wick high school has been deteriorating since Peter Peacock was the leader of Highland Council. During the eight years of the Liberal-Labour Administration, not enough money was given to the council to deal with the problem.

**The Presiding Officer:** Come to the question, please.

**Rob Gibson:** Does the minister agree that novel methods might require to be used? Does she support the idea of the council investigating a bond issue to deal with some of the immediate problems?

**Maureen Watt:** Various options are open to councils for accessing funding to rebuild their estate. As members know, the Government plans to introduce a Scottish futures trust, on which consultation ended last year.

#### **Oil and Gas Exploration (Moray Firth)**

**6. Robin Harper (Lothians) (Green):** To ask the Scottish Executive whether ministers support the proposals by the United Kingdom Government to allow oil and gas exploration within the protected area of the Moray Firth. (S3O-2552)

**The Minister for Environment (Michael Russell):** Oil and gas exploration and exploitation are critically important to the Scottish economy but so, of course, is our environment. In considering whether such activities should be permitted in the Moray Firth special area of conservation, the Department for Business, Enterprise and Regulatory Reform, as the relevant competent authority, must comply with the requirements of the European Union habitats directive and the Offshore Petroleum Activities (Conservation of Habitats) Regulations 2001, as amended.

An appropriate assessment of block 17/3 in the Moray Firth was published for consultation by the Department for Business, Enterprise and Regulatory Reform on 21 December 2007. All the other blocks in the Moray Firth have been withdrawn from the 25<sup>th</sup> offshore licensing round, pending the outcome of the consultation on block 17/3, which goes on until 14 March.

As Scottish Natural Heritage has not yet finalised its comments on the implications for the Moray Firth special area of conservation, it would be premature for me to comment on the specific proposal before I have had the opportunity to consider SNH's advice.

**Robin Harper:** I presume that the minister will have seen today's coverage in *The Press and Journal*, which shows that Westminster's attitude

to the available science is deeply flawed and that our precious marine environment is in danger. Has the Government decided whether to make representations to Westminster on this serious issue, given that we already know that its attitude is seriously flawed?

**Michael Russell:** Our science will not be seriously flawed and our attitude will be determined by the work that is being undertaken by Scottish Natural Heritage. I repeat what I have just told the member. SNH is finalising its comments. The consultation round does not finish until 14 March. When I have seen SNH's advice, I am certain that I will do my usual robust thing.

**Lewis Macdonald (Aberdeen Central) (Lab):** Does the minister acknowledge that UK ministers and the oil and gas industry are guided by guidelines that were drawn up by the Joint Nature Conservation Committee, whose data do not bear out the concerns that Mr Harper has expressed? Does he share my view that the UK Government's requirement that a strategic environmental assessment be carried out before a block is released for exploration under a licensing round is the right approach?

**Michael Russell:** The right approach is to listen to the advice of SNH, to submit that before the end of the licensing round and to recognise the sensitivity of the issue.

Yesterday and today, the regional advisory councils have been meeting in this very building to discuss maritime policy throughout the EU and to consider maritime protection areas. We should all be concerned about how we balance economic interests with environmental interests. The right way to make progress is to listen to the bodies that are charged with doing that before we come to our conclusions, and I am quite sure that that is precisely what this Government will do.

**The Presiding Officer:** I am delighted to say, before we move to First Minister's question time, that His Excellency Ron Prosor, the Israeli ambassador to the United Kingdom, has joined us in the Presiding Officer's gallery this afternoon. Ambassador, on behalf of the Scottish Parliament I bid you a very warm welcome. *[Applause]*

## First Minister's Question Time

12:00

### Engagements

#### 1. Ms Wendy Alexander (Paisley North) (Lab):

To ask the First Minister what engagements he has planned for the rest of the day. (S3F-567)

**The First Minister (Alex Salmond):** Later today, I will have meetings to take forward the Government's programme for Scotland. Can I say how delighted I am to be answering Wendy Alexander's questions, given that it appears that if her boss had had his way, she would have been asking questions of Annabel Goldie or Nicol Stephen?

**Ms Alexander:** We all saw the headlines this week about Scotland's booze and blade culture, and we all know that it is now even more uncomfortable to walk down the street on a Friday or a Saturday night—not just in the small hours but in the early evening. Does the First Minister agree that we need new approaches to tackle drink-fuelled violence in Scotland?

**The First Minister:** Yes, I do. That is why I am sure that Wendy Alexander will want to join me in congratulating the Cabinet Secretary for Justice on raising the issue so high on the public agenda and on introducing so many new initiatives.

**Ms Alexander:** I welcome what the First Minister has just said, but I have concerns about the mixed messages that are coming from the heart of his Government. Given the reality of drink-fuelled violence, is the First Minister on the side of his justice secretary, who said on the BBC's "Wasted Nation" that he wants to double the cost of drink, or is he on the side of his Cabinet Secretary for Finance and Sustainable Growth, who told the weekend's papers that he wanted to cut it?

**The First Minister:** Wendy Alexander should probably acknowledge that when we talk about drink being cheaper than water, we are talking not about 10-year-old Glenmorangie being cheaper than water, but about high-strength cider and beer, and about the heavy discounting by supermarkets and retailers aimed at promoting a binge culture. I hope that, in her joint enthusiasm for tackling what is a real social problem in Scotland, Wendy Alexander is not suggesting that we continue the discrimination against one of Scotland's most famous exports—discrimination that might hamper us in terms of jobs and exports around the world.

**Ms Alexander:** There the First Minister goes again—no answer. It is time for a straight answer to a straight question. The finance minister is

lobbying for a tax cut on all spirits. Like it or not, cutting tax means cutting the price of the vodka and alcopops that are causing much of the trouble on our streets. Meanwhile, the justice secretary wants to double the cost of alcohol. Which side of the bar is the First Minister on?

**The First Minister:** I am only responsible for the answers and not for Wendy Alexander's questions. If she had listened to my previous answer, she would know that I tried to make what I thought was a perfectly valid distinction, which would be well understood by the people of Scotland, between 10-year-old malt whisky and the cheap drink that is available in so many areas and that is causing us such great concern.

I do not know whether Wendy Alexander has been following the television programmes on the matter, because I remember seeing Pauline McNeill on "Newsnight" just last week, when she refused to say that she did not think that excise duty on whisky should be cut. Before Wendy Alexander asks the justice secretary or me about contradictions, she should ask her own MSPs.

**Ms Alexander:** We have still not heard whether the First Minister is in favour of cutting the price of alcohol, as his finance minister suggests, or doubling it, as his justice secretary suggests. The First Minister knows full well that excise duty is also charged on vodka and alcopops and the like. We believe that the alcohol epidemic is too serious to play politics with.

**Members:** Oh!

**The Presiding Officer (Alex Fergusson):** Order.

**Ms Alexander:** Even the Scotch Whisky Association is arguing only for a tax freeze. However, the Scottish National Party is busy stoking up a budget battle and calling for a cut. Why is the Government more interested in starting fights with London than in stopping the fights on Scotland's streets?

**The First Minister:** Over the past 10 years, I have been delighted to work on a cross-party basis with members of Parliament who have been calling on Chancellors of the Exchequer for a cut—with considerable success—based on the recognition that one of Scotland's great industries should not be discriminated against by taxing the alcohol content of drink.

If we are to address deep discounting and the binge-drinking culture, surely we should support the justice secretary in bringing forward his key proposals for how Scotland can address the problem. I do not agree with Wendy Alexander that addressing the problem means continuing to discriminate, through the tax on alcohol content, against one of Scotland's great industries, and I do

not think that many of her own members will seriously support that absurd position.

### **Secretary of State for Scotland (Meetings)**

**2. Annabel Goldie (West of Scotland) (Con):** To ask the First Minister when he will next meet the Secretary of State for Scotland. (S3F-568)

**The First Minister (Alex Salmond):** I have no plans at present to meet the secretary of state.

**Annabel Goldie:** We know that the First Minister's much-vaunted pledge of a local income tax—he set a 100-day deadline, but it has become 300 days of dither—will now, perhaps, finally surface next week. On a point of basic principle, can the First Minister confirm that the proposal is still for a nationally set tax?

**The First Minister:** The proposal will be set out in the consultation document. As Annabel Goldie knows, our proposal is to have a 3p rate of local income tax. The reason why we advocate that is that we believe that local income tax is a better and a fairer way to contribute to paying for local services. We believe that taxation should be based on the ability to pay. I know that there is a powerful coalition between the Conservative and Labour parties in favour of council tax, despite the fact that until this Administration took office that tax had risen by 60 per cent over the past 10 years—I also know that this Administration's decisive action to freeze council tax is welcomed across Scotland—but I hope that at some point Annabel Goldie will be able to persuade her members and the Labour Party that there is something fundamentally flawed about a taxation system that does not take account of people's ability to pay.

**Annabel Goldie:** Whatever else a tax set nationally is called, it is not called a local income tax. Let us be clear: we are dealing with a Scottish national income tax and it will not happen because there is no majority in this Parliament for a Scottish national income tax. Not even the Lib Dems would provide it, unless the First Minister is praying that when Nick Clegg orders opposition to the proposal there is a collapse in the Scottish ranks and they rush to the aid of the First Minister.

Let me offer the First Minister a way out and a way ahead. If he still insists that his sums add up and that he can find a way to fund the universally acknowledged black hole in his plans for a Scottish national income tax, why does he not do something that has one feature of compelling attraction to the First Minister—it is popular? Why does he not scrap the plans for his complicated and unwieldy new Scottish national income tax and consider using the money, which he insists that he can find, to cut council tax for everyone? Scotland has a choice and the First Minister has a

choice: an unwieldy 15 per cent hike in income tax or a simple, easily administered cut of 25 per cent in council tax for everyone. What is it to be?

**The First Minister:** I remind Annabel Goldie that we have just cut council tax for everyone across Scotland by freezing it—except in the case of Stirling, where the Labour-run local authority, supported by the Conservatives, decided that it was so well endowed by Scottish Government support and finance that it cut its council tax in addition to the freeze. People throughout Scotland welcome what the Scottish Government has done, particularly given what is happening south of the border.

I have read Annabel Goldie's and her party's suggestions about how we should deal with the council tax. They have varied over the years—there have been many of them—but I have read them. One thing troubles me, and it is important for the current debate. The Scottish Conservatives' previous suggestion for the council tax, before today's suggestion, was to add on to the social security rebate another rebate. The problem with that suggestion is that it would have fallen victim to the recent pronouncements of James Purnell and United Kingdom ministers on deducting from Scotland what is rightfully ours.

**David McLetchie (Edinburgh Pentlands) (Con):** That is rubbish.

**The First Minister:** I am afraid that it would have.

As we pursue the debate, more and more people will come to the conclusion that we should have fair and just local taxation in Scotland. There should be no attempt by Westminster ministers to withhold Scotland's money.

### **Cabinet (Meetings)**

**3. Nicol Stephen (Aberdeen South) (LD):** To ask the First Minister what issues will be discussed at the next meeting of the Cabinet. (S3F-569)

**The First Minister (Alex Salmond):** The next meeting of the Cabinet will discuss issues of importance to the people of Scotland.

**Nicol Stephen:** Last week, the Cabinet Secretary for Education and Lifelong Learning, Fiona Hyslop, was asked on television's "Politics Now" programme:

"Are you going to remove student debt? Are you going to write it off?"

Her reply was:

"We never promised to write it off."

Does the First Minister think that she was absolutely and completely accurate in saying that?

**The First Minister:** As Nicol Stephen well knows, the manifesto commitment was to pay the interest payments on student debt. Last week, as I stood shoulder to shoulder with his MSPs and the students who demonstrated in favour of the Government's proposals to reintroduce free education in Scotland, little did I think that, only a week later, he would seek to divide us where we were so unified.

**Nicol Stephen:** The Scottish National Party seems to have a new tactic, does it not? It used to deny breaking its promises. Now it denies making them in the first place. Does the First Minister expect us to forget that "dump the debt" was on every leaflet, on every badge and on postcards to students? There was a cartoon logo and there was even a podcast by the First Minister, yet Fiona Hyslop said last week:

"We never promised to write it off."

I wonder whether the First Minister has seen the SNP website that says:

"We will write off the accumulated debt".

Who should people believe, I wonder—Fiona Hyslop or fionahyslop.com?

**The First Minister:** My view is that people should follow manifesto commitments. *[Interruption.]*

**The Presiding Officer:** Order.

**The First Minister:** My view is that students in Scotland were demonstrating in favour of the Government's proposals for free education. I am delighted with the support that we had from the Liberal Democrats to make that progress. I hope that we will get their support on the local income tax. I got a very nice letter from Nicol Stephen only the other day. However, I found myself reflecting on manifesto commitments on Tuesday night, when a rumour swept the country that the Liberals were about to honour their manifesto commitment by voting for a referendum on the European treaty. *[Interruption.]*

**The Presiding Officer:** Order. *[Interruption.]* Order. When I ask for order, it is not an invitation to double the noise.

**The First Minister:** I headed down to London because I realised that my vote might well be decisive, only to find out that the Liberals had decided to split and were in total disarray.

**Joe FitzPatrick (Dundee West) (SNP):** The First Minister will be aware that, on Tuesday, Texol Technical Solutions in Dundee announced 85 redundancies. I am sure that the First Minister will agree that our first priority must be to ensure the rapid re-employment of those who face redundancy. Will he ensure that Dundee gets the Scottish Government's full support to develop a

forward-thinking economic and enterprise strategy?

**The First Minister:** Yes, I can make that commitment to the local member. I know about the redundancies in Dundee, which are a serious matter. The offices of the Scottish Government will give the maximum support to the local area and the employees who have been affected by the redundancies.

**Paul Martin (Glasgow Springburn) (Lab):** The First Minister might be aware that next Sunday, NHS Greater Glasgow and Clyde will begin charging for car parking at Stobhill hospital. That is despite the fact that the Public Petitions Committee has asked the health board to delay the implementation of charging until its consideration of a petition is complete. Does the First Minister agree that the Public Petitions Committee should be allowed to complete its consideration of the petition before the car parking charges are implemented?

**The First Minister:** The Public Petitions Committee's work should be considered by all concerned. I am sure that the member will want to salute the cap on parking charges that has been introduced by the Deputy First Minister and Cabinet Secretary for Health and Wellbeing. A £3 cap is a thoroughly good idea given the outrageous charges that developed in certain hospital car parks under the tutelage of the previous Administration. The cap that is being introduced will mean protection for staff and patients around Scotland. We should remember and welcome the fact that the majority of hospital car parks in Scotland remain free to use.

## Firearms Legislation

**4. Nigel Don (North East Scotland) (SNP):** To ask the First Minister what discussions the Scottish Government has had with United Kingdom ministers regarding firearms legislation. (S3F-575)

**The First Minister (Alex Salmond):** The Cabinet Secretary for Justice and I have met UK Ministers to discuss firearms legislation. We have also exchanged letters with UK ministers on that very important subject.

**Nigel Don:** Between 2003 and 2007, the number of air-gun incidents that were handled by Grampian police increased fivefold. In Scotland, the number of cases in which air weapons were fired at a person and caused injury has jumped 20 per cent in the past two years. That contrasts with the situation in England and Wales, where the number of crimes involving air-guns has dropped by 10 per cent during the past two years. Taking those figures into account, does the First Minister agree that, contrary to the views apparently

expressed by the Home Secretary, Scotland has a more acute problem with air-guns that must be addressed urgently?

**The First Minister:** I agree with that. Members will be disturbed to hear the figures that the member from the area gives for the north-east of Scotland—figures that are replicated throughout Scotland. In 2006-07, 144 cases were reported in which an air weapon was fired or killed or caused injury to a person. I am sure that everyone will agree that that is 144 too many and that we should all be determined to reduce the risk posed by those weapons for the people of Scotland.

**Margaret Smith (Edinburgh West) (LD):** Does the First Minister agree that, given the powers that are available to us, a useful first step would be for the Government to adopt the Liberal Democrats' suggestion to introduce a tough licensing scheme for air-guns?

**The First Minister:** Although the Home Secretary has turned down the invitation to jointly host a summit to consider the issue, such a summit should and will go ahead because, over and above the basic requirement for legal protection, it might well be that we can toughen up the situation using existing legislation. I am sure that Margaret Smith will want to bring her views to the summit that will be held by the Cabinet Secretary for Justice.

### Domestic Violence

**5. Margaret Curran (Glasgow Baillieston) (Lab):** To ask the First Minister, in the week of international women's day, what the Scottish Government is doing to support women suffering domestic violence. (S3F-581)

**The First Minister (Alex Salmond):** The Scottish Government has shown its commitment to the work to tackle violence against women, including domestic abuse, through the allocation of more than £40 million over the next three years. For example, both the violence against women fund and the children's services-women's aid fund will continue, as will funding for Scottish Women's Aid, Rape Crisis Scotland and the two national helplines for domestic abuse and rape crisis.

Furthermore, six of the 15 national outcomes are relevant to work to prevent violence against women and, as Margaret Curran well knows, I signed the zero tolerance statement of intent at the cross-party event held in the Parliament a few weeks ago.

**Margaret Curran:** I thank the First Minister for his answer and acknowledge that progress is continuing on our work.

Does the First Minister agree that many, if not all in the Parliament will, on international women's

day, want to pay tribute to the women of earlier generations who fought for the vote, for equal pay, for child care and for political representation? However, I am sure that the First Minister will acknowledge that members across the chamber recognise the continuing and profound challenge presented by domestic abuse. Does the First Minister agree that the pilot domestic abuse court in Glasgow has been proven to work and, if so, will he tell the chamber what he considers to be the successes of the domestic abuse court? Will he stand, on international women's day, with the women who tackle domestic abuse day and daily and who want the court extended throughout Scotland? Will he tell the Cabinet Secretary for Justice, who refuses to support that change, which is demanded by women's organisations throughout Scotland, to think again?

**The First Minister:** The first thing is, of course, to continue the work of that court and extend it throughout the city of Glasgow. Not every court in Scotland is suitable, as Glasgow most certainly is, for that work, but it is certainly being considered for application elsewhere. I should have said to Margaret Curran that, on Tuesday in this week of international women's day, Mr MacAskill and the Deputy First Minister met the women's coalition to examine a range of issues that the women's coalition is bringing forward. It was an extremely productive meeting.

Furthermore, on Saturday there will be a daytime event at the Scottish Parliament hosted by the Minister for Europe, External Affairs and Culture and a reception at Edinburgh castle later on. The range of issues on the agenda on Tuesday—I have an outcome note of it—makes extremely interesting reading and shows the commitment that I hold, and that I hope is held by members across the chamber, to the vital importance of those issues.

**Sandra White (Glasgow) (SNP):** The First Minister will be aware of Amnesty International's report "No recourse, no safety", which highlights the plight of women with insecure immigration status who are fleeing domestic abuse, and who have no recourse whatsoever to public funds. Will the First Minister look at that issue and enable those women to access the services to which they are entitled under our country's obligation to protect human rights?

**The First Minister:** I will look at the issue, as suggested, and I will write to the member.

**Hugh O'Donnell (Central Scotland) (LD):** As part of the strategy to address the abhorrence that is domestic violence, will the First Minister ensure that the vulnerable persons database is included in the scope of the Disclosure Scotland scheme, to ensure that potential employers have access to relevant information relating to domestic abusers?

**The First Minister:** I will certainly see that that suggestion is properly considered and taken forward if it is appropriate.

**Margo MacDonald (Lothians) (Ind):** On a more positive note, can the First Minister outline any education measures that will be undertaken? If we seek to reduce violence against women in the home, men have to be educated from the cradle to the grave.

**The First Minister:** One of the key items discussed at the meeting on Tuesday was to examine further the work that is already under way in the prevention strategy to underline the importance that is placed on education and on promoting that work; and also to look at the international experience, which gives us valuable insight into that. That was welcomed by the women's coalition members, and officials are currently being asked to provide further advice to ministers on how that can be taken forward.

### Airports

**6. John Scott (Ayr) (Con):** To ask the First Minister what discussions the Scottish Government has had with BAA about the future of Scotland's airports. (S3F-572)

**The First Minister (Alex Salmond):** We have regular contact with the operators of Scotland's main airports at ministerial and official level. The meetings can cover a wide range of issues, including the future development of airports.

**John Scott:** Although the decision on a third runway at Heathrow is a matter to be determined south of the border, the First Minister will be aware that there are concerns that, unless overall capacity is increased, connectivity to Scotland's airports might be adversely affected. There is serious concern that more routes to Scotland will be lost, or that the frequency of flights will be reduced. Can the First Minister outline the steps that ministers propose to take to protect and develop air connectivity between Scotland and London in the interests of growing the Scottish economy?

**The First Minister:** The Competition Commission is conducting an inquiry into the provision of airport services by BAA. The Commission met with Scottish officials on 30 January and a transcript of that hearing will appear on the commission's website in due course. As the member will know, I am visiting Prestwick airport on Tuesday, and I will be keen and anxious to talk about the particular impact and importance of Prestwick to that part of Scotland.

**Gil Paterson (West of Scotland) (SNP):** That Scotland is now free of bridge tolls is welcome, but I am sure that the First Minister is aware that BAA has introduced a road toll: it has introduced

charges for collecting passengers at airports in Scotland. Will the Government step in and find a way to nullify and negate the powers of regulation that BAA has used to introduce a holiday tax?

**The First Minister:** The Government has submitted evidence to the Competition Commission in relation to the inquiry. I know that the matter that the member raises has been controversial for several airports in Scotland, and I know because of my constituency role that Aberdeen airport has just withdrawn its initial proposals on taxation on taxi uplifts. I hope that the matter will be properly discussed, as there is concern that there are competition implications to some of the charging mechanisms that are being used.

**Lewis Macdonald (Aberdeen Central) (Lab):** Is the First Minister aware of the view that the Aberdeen Hotels Association expressed last week that setting targets for growing tourism on the one hand and cutting the route development fund on the other hand

"just does not stack up"?

Given that in Aberdeen next week, the Economy, Energy and Tourism Committee will take evidence on the tourism growth targets, will the First Minister offer some good news for tourism in the north-east by announcing a new fund to support direct flights into Scotland?

**The First Minister:** As Lewis Macdonald well knows, it is no longer possible to pursue the route development fund because of European competition rules. The extension that the previous Administration was allowed has now run out, and it would be impossible to pursue the scheme in its current form.

We are considering transport policy in the round. Obviously, the tourism targets were industry targets that the previous Administration adopted and we have endorsed. In the coming years, there will be a number of positive developments in Scottish tourism, not least of which will be the year of homecoming next year, Glasgow 2014 and the Ryder cup. I have every confidence that, although the targets are challenging, they are reasonable and can be met.

**Patrick Harvie (Glasgow) (Green):** I am sure that every member is aware that scientists have said that emissions from the aviation sector have a far more damaging impact on climate change than emissions from ground-based industries. Does the First Minister accept that if we allow the aviation industry to expand at its current rates and build more capacity to allow and facilitate that expansion, aviation will account for the majority of the country's carbon budget well before 2050, and well before the long-term targets to which the Government has committed itself are met? How is

the target of reducing emissions by 80 per cent to be met if the Government continues to facilitate the expansion of the aviation industry?

**The First Minister:** The 80 per cent target will be a statutory obligation on the Government.

I want to put two points to Patrick Harvie. First, I am sure that if members were to judge the best and most appropriate way of taking people from Scotland to London, the bulk of them would favour a fast rail link; unfortunately, such a link is not the favoured choice of the Department for Transport. It was not the favoured choice of the previous Secretary of State for Transport and it is not the favoured choice of the current Secretary of State for Transport.

Secondly, even Patrick Harvie should acknowledge that there is a bit of common sense in having direct flights to and from Scotland. If there are direct air flights, two air journeys—for example, a journey to Heathrow or elsewhere and an international journey from there—are exchanged for one air journey. Such flights would seem to be a carbon gain, good for the Scottish economy and good for our carbon emissions output.

**Des McNulty (Clydebank and Milngavie) (Lab):** I am sure that the increasing number of flights boosts the economy, but aircraft noise is a problem. It pollutes the environment in communities such as Whitecrook, Linnvale and Drumry, which are in my constituency. How can the problems that are caused by aircraft noise be mitigated through discussions that the First Minister may have with BAA and the airline operators? Does the First Minister's Government have any intention of progressing the issue?

**The First Minister:** Legitimate and serious concerns exist about environmental damage, which can be caused in a number of ways. When I consider the matters that have been raised, I will do my absolute best to reconcile the points that Lewis Macdonald has made and the point that Des McNulty has just made. Some people might see them as being directly contradictory, but on balance and on the whole we can judge such things in the best interests of the Scottish people.

12:30

*Meeting suspended until 14:15.*

14:15

*On resuming—*

## Question Time

### SCOTTISH EXECUTIVE

#### Finance and Sustainable Growth

##### Economic Development (Borders)

**1. Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD):** To ask the Scottish Executive what dedicated investment there will be for supporting economic development in the Borders. (S3O-2502)

**The Cabinet Secretary for Finance and Sustainable Growth (John Swinney):** The prime source of investment for supporting economic development in the Borders, alongside the private sector, will come from the local authority and Scottish Enterprise. Scottish Enterprise's delivery will be organised on a regional basis, with Borders alongside Dumfries and Galloway comprising its south of Scotland region.

Scottish Enterprise's future budget allocations to each of the five regions in its area have not yet been approved. I can however tell the member that the Scottish Government places great importance on supporting and encouraging economic development throughout Scotland, including the Borders.

The Government economic strategy sets out how we will focus on creating a more successful country through increasing sustainable economic growth. The strategy sets out an approach to growth that is cohesive across Scotland's regions.

**Jeremy Purvis:** It is only a matter of weeks until the start of the new financial year and yet there is still no definite figure for what the enterprise network investment will be. The cabinet secretary will know that the figure last year was £9 million, of which £1.1 million was for skills and learning. How much will go to the Borders next year? When will agreement on that investment be reached with the business gateway and the local authority? What is the target for start-up businesses? The cabinet secretary knows that last year's figure of £9 million included £520,000 to encourage more than 200 new business start-ups. What is the figure for next year?

**John Swinney:** Discussions relating to decisions on the business gateway are on-going. The Government is working to ensure that those decisions are arrived at timeously. Obviously, in many respects the formulation of budgets is predicated on the passage through the Parliament of the Budget (Scotland) Bill. I am delighted that

we succeeded in achieving passage of our budget bill last month.

One measure that will support investment in the Borders is the small business bonus scheme, which has been warmly welcomed across Scotland. It will have a formidable effect on communities in the Borders. The effect will be no less in the town of Hawick. The town may not be in Mr Purvis's constituency, but it is in the Borders. In the *Hawick News*, of which I am an avid reader, I read that the announcement of the small business bonus scheme was welcomed as "great news" by Hawick and Hermitage councillor Ron Smith, who is—I happen to have heard—a Liberal Democrat. Mr Smith said:

"This is great news. It will particularly favour the smaller local shops which are the mainstay of any High Street."

I am delighted that the Government has made such a positive impression on economic development in the Borders. I look forward to Borders businesses benefiting from such a visionary scheme from the Government.

**John Lamont (Roxburgh and Berwickshire)**

**(Con):** I draw the cabinet secretary's attention to the Government's gross value added figures, which show a dramatic drop in investment in the Borders during the time of the Liberal-Labour Administration. Can he assure me that the trend will be reversed?

**John Swinney:** I am pretty sure that Mr Lamont is also an avid reader of the *Hawick News*, so he too will have seen the warm welcome that the Liberal Democrats have given the small business bonus scheme that the Government was delighted to introduce. I am glad that the Conservatives were able to support it during the passage of the budget bill. I am certain that the reduction in business rates will have a significant effect on improving business competitiveness and opportunities, particularly for businesses in areas such as the Borders where business rates are a formidable part of the cost of running a business. I look forward to seeing the fruits of that success in the months and years to come.

**Christine Grahame (South of Scotland)**

**(SNP):** I attended a successful Borders tourism exchange event in Kelso on Tuesday, as did my colleague John Lamont—this is not a coalition. As the cabinet secretary is aware, tourism is a key growth area in the Borders. Has he had any contact with this fledgling partnership? If not, will he or the Minister for Enterprise, Energy and Tourism meet representatives and me to discuss ways of assisting this development?

**John Swinney:** Christine Grahame is omnipresent in the Borders—Kelso, Hawick, Galashiels and all other areas—and I am delighted to welcome her interest in the area. The Minister

for Enterprise, Energy and Tourism will be delighted to meet the tourism representatives. There has been a great deal of dialogue between the Government, particularly the enterprise minister, and the tourism sector. We appreciate that dialogue, which forms part of our determination to ensure that tourism becomes an even greater contributor to the Scottish economy. There is significant potential for it to do so.

**Des McNulty (Clydebank and Milngavie)**

**(Lab):** How does the Cabinet Secretary for Finance and Sustainable Growth reconcile the statement, made in June 2007, that the Scottish Government would provide £115 million towards the Waverley line project with yesterday's announcement, which effectively removes £115 million—which was earmarked for taking forward the project—from the budget for the spending review period? How is no money and no railway before 2011 good news for economic development in the Borders?

**John Swinney:** Because we will actually do it. This is the big regret about the previous Administration, which had eight years of an undiluted opportunity. Without being in any way disrespectful to the record of the Labour Party in the previous Administration, I remember its members being privately reluctant about the Borders railway—so much so that nothing was done to lay one metre of track. It is bizarre that Mr McNulty is trying to hold the Government to account in this way. We will be able to deliver on the Borders railway in a way that the Labour and Liberal Administration comprehensively failed to do during the past eight years.

## **Young People (Education and Training)**

**2. Elaine Smith (Coatbridge and Chryston)**

**(Lab):** To ask the Scottish Executive what plans it has to allocate additional funding, over and above the Cabinet Secretary for Education and Lifelong Learning's budget, to ensure that all young people receive sufficient education and training to contribute effectively to the economy. (S3O-2548)

**The Cabinet Secretary for Finance and Sustainable Growth (John Swinney):** The Budget (Scotland) Bill for 2008-09, which details the Administration's spending plans, was approved by Parliament on 6 February 2008. Appropriate provision has been made in the overall budget, and in the education and lifelong learning and local government budgets, to ensure that all young people receive sufficient education and training to contribute effectively to the economy.

**Elaine Smith:** Does the cabinet secretary agree that sufficient funding is essential if further education institutions are to be allowed to prioritise the educational needs of the communities they



serve rather than operate as businesses subject to financial constraints based on restrictive performance indicators? Is the cabinet secretary aware of the situation in my constituency, where general education courses at Coatbridge College are under threat? Can he offer any assistance to help secure a future for those vital courses?

**John Swinney:** I am aware of the detail to which Elaine Smith refers regarding the situation at Coatbridge College. As I understand it, the changes to the general education courses there have been undertaken on educational grounds, as part of a process that has been under way for some considerable time. Essentially, their purpose is to improve the performance of the college, which is now achieving formidable levels of performance—and the number of enrolments has increased from about 5,000 to about 7,000. The college is performing well, it is financially secure and it is working to deliver the courses that are appropriate for all the communities it serves.

On Elaine Smith's more general point at the start of her question, the Government is determined to ensure that the further education sector receives adequate funding, which I believe it has, and can make a significant contribution to the development of skills in our economy. It is upon the skills agenda that we will be able to build a great measure of our competitiveness. The further education sector and Coatbridge College, which is in an area where economic development is very welcome, will be able to contribute to that, based on the budget that Parliament has approved.

### **Tidal Energy (Pentland Firth)**

**3. Jamie Stone (Caithness, Sutherland and Easter Ross) (LD):** To ask the Scottish Executive what discussions it has had with the United Kingdom Government regarding investment in the development of renewable tidal energy in the Pentland Firth. (S30-2507)

**The Minister for Enterprise, Energy and Tourism (Jim Mather):** We are in close contact with the UK Government on a range of issues relating to the development of renewable energy. The Pentland Firth presents a huge potential energy resource and could play a vital role in terms of our renewables targets as well as revitalising the local economy. The Scottish Government is working closely with a number of bodies, including Highlands and Islands Enterprise, Highland Council and the Crown Estate, on ways to accelerate deployment in the firth and maximise the associated economic benefits for Caithness.

**The Presiding Officer (Alex Fergusson):** I call Jim Mather—sorry, Jamie Stone.

**Jamie Stone:** Yes, I am indeed Jamie Stone, but that does not prevent me from warmly welcoming the positive tone of the minister's answer. As Dounreay continues to decommission and people are worried about long-term quality employment, there is a lot of positive talk about the potential of the Pentland Firth. Does the minister agree that turning that potential into an actuality will take considerable investment and that the enterprise network, the Scottish Government and Highland Council will not have those resources? Does the minister therefore agree that co-ordination with Westminster to provide public funding and to attract private funding will be essential?

**Jim Mather:** We do not see the enterprise agency as working in isolation, and we tend to go beyond what Westminster is offering. Our proposed changes in the renewables obligation Scotland will give developers the appropriate support to develop the technology further. We will consult on those proposed changes in due course.

In addition, there is the Scottish Government's £13 million wave and tidal energy support scheme. The scheme supports nine innovative projects and provides funding for infrastructure upgrades at the European Marine Energy Centre in Orkney. We have also just completed a strategic environmental assessment that has identified a number of ways in which we can push forward our knowledge to understand how best to develop marine renewables. In response to that, we will convene a marine energy policy group, made up of key industry and environmental stakeholders. They will lead in creating and monitoring an environmental research programme for the sector. The situation is looking positive for the future.

**Rob Gibson (Highlands and Islands) (SNP):** Would the development of a European energy network be a means to take marine power to the markets that exist, perhaps to bypass the blockage with the Office of Gas and Electricity Markets, and to get the UK Government to see that there is a wider market in Europe? Would that incentivise the investors in the Pentland Firth potential to commit the large sums that will be required?

**Jim Mather:** It is interesting that the wider potential has been identified not only by the Scottish Government but by a very British institution, the Crown Estate, which identified the potential of subsea interconnection. The bottom line is that the Government is committed to harvesting offshore renewables. The development of an offshore network and infrastructure is accepted to be vital in unlocking the long-term economic benefits—hence the strategic environmental assessment. That is an indication of our desire to explore every option to optimise the

renewables. We will maintain close and regular contact with a range of stakeholders. However, under the current framework, regulatory responsibility remains with Ofgem.

**Gavin Brown (Lothians) (Con):** Does the minister seriously still intend to reduce targets for tidal and wave energy over the next four years?

**Jim Mather:** Reducing targets and returning to zero, and thereby not penalising consumers and the industry for devices that do not exist, seems eminently sensible to me. That is indeed what we intend to do.

**Lewis Macdonald (Aberdeen Central) (Lab):** Does the minister agree that, in addition to the funding from Scottish sources that he has indicated, it is important that tidal energy initiatives in the north of Scotland continue to attract UK Government funding, as they have done in the past four years? In view of industry predictions that commercially achievable tidal and wave energy projects are likely to come on stream eight to 10 years from now, will he indicate his intentions in addressing base-load need in the interim period?

**Jim Mather:** On UK collaboration, the answer is yes—it is important so that we can develop and help to meet the UK targets, which would otherwise be a struggle. Let me point also to UK data that say that, in 2006, 92 per cent of the Scottish energy requirement was provided by fossil fuels, renewables and pump storage.

In essence, our future in renewables is rosy. We are seeing material investment programmes from all the major companies. The Government is laying down the right signals, which are being followed and which we intend to augment in the future. We are also seeing unprecedented interest from overseas. This very day, I am meeting companies that are beginning to look at what they can do in Scotland.

We are putting out the right signals and the investment is forthcoming. We will collaborate with anyone and everyone who will help us to meet the targets that Scotland is setting for itself on energy and stability of supply, and our commitment to climate change.

#### **Road Equivalent Tariff (Mull and Islay)**

**4. Des McNulty (Clydebank and Milngavie) (Lab):** To ask the Scottish Executive on what basis it was decided that services to and from Mull and Islay should not be included in the pilot of the road equivalent tariff scheme that was recently announced by the Minister for Transport, Infrastructure and Climate Change. (S3O-2540)

**The Minister for Transport, Infrastructure and Climate Change (Stewart Stevenson):** Mr Swinney announced details of the road equivalent tariff study during his visit to Stornoway on 13 August 2007. That announcement made it clear that we would carry out a study into RET in the context of ferry fares in Scotland and that the study would include a pilot exercise on one or more of the Western Isles to mainland routes.

I am pleased to say that we are able to include all the Western Isles to mainland routes in the pilot exercise as well as the Oban to Coll and Tiree service. Focusing on those routes initially will allow us to reach a view on the potential costs and benefits of the scheme and to take informed decisions on its potential impacts across other routes. Consideration will be given to the roll-out of RET across the Clyde and Hebrides and northern isles networks once the impact of RET has been evaluated.

**Des McNulty:** Some of the minister's responses are beginning to resemble the justification that was provided by comical Ali during the Iraq invasion. Such things will be picked up—[*Interruption.*]

**The Presiding Officer:** Order.

**Des McNulty:** People in Arran and Cumbrae will be extremely annoyed that significant reductions in ferry fares will be available to others, but not to them. People in Mull and Islay will be annoyed that significant reductions will be available to others, but not to them. People in Orkney and Shetland will also—

**The Presiding Officer:** They would probably like a question as well, Mr McNulty.

**Des McNulty:** Had the Government followed Labour's approach of implementing a 40 per cent reduction in ferry fares—

**The Presiding Officer:** Can we have a question, please.

**Des McNulty:** Such a reduction would have delivered something for everyone. Why will the minister not deliver that?

**Stewart Stevenson:** Perhaps we can now clearly understand why Labour has no parliamentary representatives in the Western Isles.

The median wage in the Western Isles is £55 a week less than that in Shetland. The unemployment rate is twice that in the northern isles. Over the past 20 years there has been an 18 per cent reduction in the population of the Western Isles, but other island populations have experienced relative stability. If it is not clear to the member, we are delivering equity and fairness as well as delivering on a manifesto commitment. We

have done the right thing by the people of the Western Isles.

**Jamie McGrigor (Highlands and Islands) (Con):** Not only the people of Mull and Islay, but the residents of Jura, Bute, Colonsay and Arran—as well as those who live in Dunoon—will miss out on the lower ferry fares. All those people would have benefited from the previous Government's manifesto plan for a 40 per cent cut in ferry fares, but after 19 October—

**The Presiding Officer:** Can we have a question please, Mr McGrigor.

**Jamie McGrigor:** For 30 months after 19 October, only the people of the Western Isles, Coll and Tiree will benefit from lower fares. Does the minister think that that is equitable?

**Stewart Stevenson:** The member should revisit some of the information that he has provided and understand it more clearly. Every user, no matter where they reside—whether their journey is for business or pleasure or for the purposes of local education or health—who travels by ferry to and from the Western Isles will benefit from the £22.5 million that will be invested in the pilot over the 30-month period starting in October.

Labour's proposed 40 per cent cut was a narrow scheme that would have been limited to residents. The key difference between the two schemes is that our pilot will be a way of bringing new people to the islands and supporting the islands' economic potential—I have already given some numbers on the median salary in the Western Isles. It is clear that there is potential to be exploited.

From the pilot, we will draw conclusions in due course for the 69 ferry routes that operate throughout Scotland. We are leading the way but we're not finished the job.

**The Presiding Officer:** I have agreed to a request from Alasdair Allan to ask a supplementary question in Gaelic. Members will be relieved to know that he will also provide his own translation.

**Alasdair Allan (Western Isles) (SNP):** Chan eil mi a' tuigsinn càit a bheil comical Ali a' tighinn a-steach.

A dh'fhaighneachd do Riaghaltas na h-Alba dè seòrsa beannachdan eaconamach a thathar an dòchas gun tig dha na h-Eileanan an Iar agus gu Colla is Tiriodh nuair a thòisicheas sgeama piolait RET air aiseagan anns an sgìre.

I am not sure where comical Ali fits into this.

What benefits does the Scottish Government expect to come to the Western Isles, Coll and Tiree when the RET pilot begins on ferry services in the area?

**Stewart Stevenson:** Tapadh leat. The member has homed in on the essential part of what we are trying to do. This is about economic development and equity. Primarily, we are creating an opportunity for tourism businesses and for the young people of the Western Isles to feel that they have a future there. We want to tackle the attrition of the islands' population, which has declined by 18 per cent in 20 years, and to give hope to the people of the Western Isles. I hope that Mr Allan will be able to convey that message to them powerfully. I believe that they will welcome it.

### Scottish Enterprise (Meetings)

**5. Margaret Mitchell (Central Scotland) (Con):** To ask the Scottish Executive when it last met representatives of Scottish Enterprise Lanarkshire and what issues were discussed. (S3O-2454)

**The Minister for Enterprise, Energy and Tourism (Jim Mather):** The question in the *Business Bulletin* asks when the Scottish Executive last met representatives of Scottish Enterprise. The word "Lanarkshire" does not appear.

**The Presiding Officer:** That is correct. I should have clarified the point.

**Jim Mather:** Thank you, Presiding Officer.

The Cabinet Secretary for Finance and Sustainable Growth and I met the chair and chief executive of Scottish Enterprise on 20 February. The main topic of discussion was progress and current activity in implementing the enterprise network reforms.

**Margaret Mitchell:** I thank the minister for clarifying that my question referred to Scottish Enterprise, rather than Scottish Enterprise Lanarkshire.

Is the minister aware of concerns in the medical technology sector in Lanarkshire about the fact that, over the coming months, Scottish Enterprise is due to wind down the not-for-profit organisation that was set up to encourage entrepreneurs into the medtech sector in Scotland—an arrangement that was subsequently replicated throughout Britain? Given that that will leave the Scottish medtech sector as the only such sector in the United Kingdom without a support organisation, will the minister approach Scottish Enterprise with a view to having it reconsider its decision?

**Jim Mather:** The member may see an opportunity in the current climate, which is interesting. Over the past nine months, we have met an increasing number of industry sectors that have nominated their own representative bodies. That is an effective approach that now extends beyond the Scotch Whisky Association, Scottish Financial Enterprise and Scottish Engineering to

the Life Sciences Alliance and the chemical sciences sector. The best approach may be for self-motivated industry sectors to come together to create representative bodies, to engage more widely and to take control of their future strategies. My most interesting experience in this area of late was when I was invited to a second event with the Life Sciences Alliance, which had taken the initiative, built its own agenda and brought that to us and to Scottish Enterprise in a consolidated way.

**Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD):** Will the minister give my constituents the courtesy of replying to them? Last year, Scottish Enterprise allotted £520,000 specifically to the Borders to develop 200 new start-up businesses. Will there be a target for that in the coming year? If so, what is it?

**Jim Mather:** The obsession with targets is interesting. Recently I have fallen under the spell of one John Seddon, who is bringing the Toyota approach to the public sector. If other members have not heard of that approach, I am glad to be able to broadcast it further today. Mr Seddon's view is that we should gradually wean ourselves off targets, which may create confusion and lead ingenuity to be utilised to meet targets rather than to make progress. Rather than impose further targets on areas, I am keen to work with them in order perennially to get better results—closely measured, year on year—to move matters forward.

**David Whitton (Strathkelvin and Bearsden) (Lab):** I am disappointed to hear that the minister is not interested in targets, as I thought that he was interested in outcomes. Scottish Enterprise has always set targets for business growth. Perhaps when he meets Scottish Enterprise he will press it to get on with the changes that are being made to the business gateway. Far from being subject to timeous arrangements, the switchover is months behind. Perhaps Mr Swinney only puts stories in the *Sunday Herald* and does not read them.

**The Presiding Officer:** The member should ask a question.

**David Whitton:** The delay to the business gateway is delaying start-ups. Is there any chance at all that there will be a change of mind, and that the Kirkintilloch office in my constituency will be properly staffed instead of being just a virtual office? That is hitting the number of start-ups in my constituency.

**Jim Mather:** I suggest that Mr Whitton did not properly hear my answer vis-à-vis targets and outcomes. Perhaps he should read the *Official Report* to get some clarity on that.

Meanwhile, in the real world, the Convention of Scottish Local Authorities and Scottish Enterprise are working together closely to achieve the results that we all want. They are working closely in dialogue and looking towards the unifying goal of increased sustainable growth to which we are all looking; seeking to be part of the one economic system; working together to increase sustainable growth; and, in the process, encouraging more businesspeople to be involved to ensure that we have a much better system that delivers infinitely better results than we have had in the past.

### Clyde Fastlink

**6. Pauline McNeill (Glasgow Kelvin) (Lab):** To ask the Scottish Executive what steps are being taken by ministers to progress the Clyde fastlink public transport project. (S3O-2539)

**The Minister for Transport, Infrastructure and Climate Change (Stewart Stevenson):** The Clyde fastlink project is being considered within the strategic transport projects review.

**Pauline McNeill:** Phase 1 of the Clyde fastlink would provide a vital link between Glasgow city centre and the Scottish Exhibition and Conference Centre, which is a venue for the Commonwealth games in 2014, and which will be the location of the press and international broadcasting centre. For that reason, does the minister agree that the fastlink project should be supported financially within this spending review? Does he agree that this is not just about the Commonwealth games, but that the fastlink would be a vital link for people in my constituency who live along the north of the Clyde in new communities, and that it would link up two major hospitals, not to mention other important venues? When will money be made available for fastlink? When can we expect to hear when it will be available?

**Stewart Stevenson:** We are proceeding at best pace with the strategic transport projects review that we inherited from the previous Administration. We think that that is a sound way forward. We are making progress, and we have identified a series of clusters and corridors in which we are looking at transport needs.

I expect to undertake a series of engagements with communities throughout Scotland to discuss which particular needs we should reflect in the final outcomes. I expect that to happen over the summer recess.

### Sheriffhall Junction

**7. Rhona Brankin (Midlothian) (Lab):** To ask the Scottish Executive whether it will provide an update on Transport Scotland's consideration of options for improving the Sheriffhall junction. (S3O-2513)

**The Minister for Transport, Infrastructure and Climate Change (Stewart Stevenson):** Transport Scotland has commissioned the consultants Atkins Ltd to investigate short and long-term improvement options for Sheriffhall. Short-term measures to optimise the performance of Sheriffhall roundabout without incurring the delay involved in publishing road orders, such as signal adjustment and localised improvements at the roundabout, are being considered. Depending on the nature of such measures, implementation will begin this summer.

Longer-term options that are identified as part of the feasibility study will be considered against other priorities in Transport Scotland's strategic transport projects review, which is under way and due to report in summer 2008.

**Rhona Brankin:** Coming just a day after the minister announced that the £115 million that was earmarked for the Waverley line has disappeared, and that my constituents will wait at least five years for trains to run on the Waverley line, his answer represents a double whammy for Midlothian commuters. Not content with delaying the Waverley line through 10 months of Scottish National Party inaction, the minister is no closer to delivering much-needed improvements—

**The Presiding Officer:** I believe that this question is about the Sheriffhall junction. The member should ask a question.

**Rhona Brankin:** If the Government will not set a timetable or provide funding for the Waverley line, will it at least do something for fed-up users of the Edinburgh city bypass, stop dithering and commit to a grade-separated junction to ease congestion at a traffic black spot that was recently judged to be one of the 10 most daunting junctions in the United Kingdom?

**Stewart Stevenson:** I will confine my remarks to Sheriffhall, as the Presiding Officer instructed. Once again, I encourage Rhona Brankin to listen and to read what I have previously said. We are acting—*[Interruption.]*

**The Presiding Officer:** Order.

**Stewart Stevenson:** We are acting immediately to seek to make improvements that can be made rapidly. We are doing that because we recognise the need to make changes at Sheriffhall. Members would, of course, expect us to consider the long-term needs of Sheriffhall too, which we are doing. *[Interruption.]*

**The Presiding Officer:** Order.

**Stewart Stevenson:** The member may not have had confidence in the strategic transport projects review that the previous Administration undertook, but I am sure that the SNP Administration will take

community concerns very seriously, despite the member's loose and unhelpful language.

**visitscotland.com**

**8. Lewis Macdonald (Aberdeen Central) (Lab):** To ask the Scottish Executive how proposed changes to visitscotland.com will affect potential visitors to Scotland. (S3O-2535)

**The Minister for Enterprise, Energy and Tourism (Jim Mather):** The changes to visitscotland.com will enhance our visitors' understanding of Scotland by inspiring them and informing them about all that is on offer. Visitors will be given a choice of fast, free and direct access to the most comprehensive visitors' guide to Scotland and to a diverse and dynamic online travel shop. The aim is to attract more visitors to Scotland and for the site to act as a shop window for accommodation services and other businesses that seek to reach the international tourism market.

**Lewis Macdonald:** In the light of what the minister has already said this afternoon, will he confirm his continuing support for the target of increasing tourism revenues by 50 per cent by 2015? Will he join me in commending visitscotland.com for its success in developing over the past two years a world-leading technology platform for the changes that it is making? How have visitors to Scotland and providers of tourism services been consulted on the changes? How will their experience be monitored in the future?

**Jim Mather:** Of course we accept the figure that the member mentioned as a goal or target that is driving the industry and creating a great deal of enthusiasm. It is also triggering altruism in the industry, because the industry realises that enhancing the visitor experience, delivering better value and creating better career opportunities will drive the industry forward. This week, we had the opportunity to put that back to the industry. At the tourism conference, I think it was said that there was a 79 per cent acceptance rate in the industry that it was going for growth big time.

The end-user customer and the industry must be listened to. Marco Trufelli of visitscotland.com and VisitScotland conscientiously did that at our event with the industry in August and our subsequent event in November. They have delivered even to the satisfaction of some of the sceptics who were in the room at that time. There was healthy scepticism, but Marco Trufelli and visitscotland.com seem to have learned to love their sceptics and produced a result that passes muster with them.

### Council Tax Freeze

**9. Keith Brown (Ochil) (SNP):** To ask the Scottish Executive how many local authorities it understands have so far agreed to a freeze or cut in council tax for the coming financial year. (S3O-2468)

**The Cabinet Secretary for Finance and Sustainable Growth (John Swinney):** I am delighted to give a specific answer for Labour members. I am delighted to say that all local authorities have decided to freeze or cut their council tax rates. That is good news for local taxpayers throughout Scotland and an example of how well the concordat with local authorities is working, despite all the scaremongering that there has been.

**Keith Brown:** Does the cabinet secretary agree that that was a Scottish National Party manifesto commitment and that, as such, another promise has been delivered? Does he agree that, given the dire predictions of doomsayers in the Opposition parties who said that it would never happen, councils deserve credit for the achievement? Does he agree that the aim has been achieved in the most difficult year in the council cycle—the first year—when council tax rates are always increased by the greatest amount? Finally, does he agree that such a major benefit to hard-pressed council tax payers would never have happened if Gordon Brown, Ming Campbell and Tavish Scott had been successful in their squalid machinations in trying to thwart the will of the Scottish people? Those people threw out the Lib-Lab coalition that had contributed hugely to the 60 per cent increase in council tax bills since 1997.

**John Swinney:** Mr Brown makes a number of very fair points. Of course we are talking about a commitment that the Government said it would deliver, and we have delivered on it comprehensively. I am delighted that Stirling Council, of its own free will, has gone a stage beyond the Government and exercised its discretion as a local authority to reduce the council tax. I pay tribute to the approach that our local authorities have taken and look forward to expressing my view personally to local authorities when I address the Convention of Scottish Local Authorities in St Andrews tomorrow.

We are going through a period in which the people of Scotland are benefiting from the radical and reforming agenda of the Government. At a time when fuel and food prices are increasing, the Government has delivered some protection to hard-pressed families in Scotland. I am sure that they appreciate that.

### Economic Growth (Slowdown)

**10. Ross Finnie (West of Scotland) (LD):** To ask the Scottish Executive what action it proposes to protect Scotland from the effects of the worldwide slowdown in economic growth. (S3O-2495)

**The Cabinet Secretary for Finance and Sustainable Growth (John Swinney):** The Government's economic strategy has been developed as a long-term strategy to turn around decades of economic underperformance in Scotland and to increase sustainable economic growth. The strategy has been developed to enhance Scotland's relative competitiveness in the face of variable economic conditions globally.

At the core of our approach is a focus on the fundamentals of Scotland's economic development—on learning, skills and wellbeing; on creating a supportive business environment; on the importance of infrastructure, development and place; on effective government; and on creating greater equity so that all of Scotland can share in our increased prosperity.

Those factors have been identified by the Council of Economic Advisers as crucial to our future success. We are confident that, by focusing on all those areas, we will enhance Scotland's economic performance during any global economic slowdown and in the recovery.

**Ross Finnie:** I am grateful for that lengthy response. I did not expect the cabinet secretary to emulate his colleague Mr Mather in the length of his response, but I give credit where it is due. Does the cabinet secretary agree that, although he has set a long-term strategy with those aims, in relation to the economic slowdown in the current globalised economy, the notion of having economic independence at a macro level is illusory?

**John Swinney:** Mr Finnie should not be surprised at the length of my answer. In opposition, I was frequently on the receiving end of formidably long answers from Mr Finnie. However, I would not want him to think that that was revenge; it was simply a measure of the quality of answer that Mr Finnie deserves—as do all members.

Scotland cannot be insulated from global economic factors and the global economic slowdown. One of our limitations in responding to those factors is the limitation of our powers at a macro level to enhance our competitiveness. The Administration will use all the powers at its disposal to ensure that Scotland is protected from the effects of the global economic slowdown. I would be delighted to work with Mr Finnie to ensure that the Parliament has a greater range of powers, which would make us stronger in tackling

those difficulties in the period ahead. I am sure that, on this and on many other issues, we will be able to find common ground with Mr Finnie and his Liberal Democrat colleagues.

### **Offenders (Rehabilitation)**

**11. Paul Martin (Glasgow Springburn) (Lab):** To ask the Scottish Executive whether any funding, over and above that in the Cabinet Secretary for Justice's budget, will be allocated to deliver the rehabilitation of offenders. (S3O-2532)

**The Cabinet Secretary for Finance and Sustainable Growth (John Swinney):** In the spending review 2007 allocations, as set out in the draft budget for 2008-09, the main tranche of funding for dealing with the rehabilitation of offenders was included as part of the concordat-based local government finance settlement. The criminal justice social work element of that funding amounts to £86.45 million per annum for 2008-09 through to 2010-11. That is detailed in annex K to finance circular 6/2007, which was issued on 13 December 2007.

**Paul Martin:** Many of the budget headings have been amplified by the Cabinet Secretary for Justice on a number of occasions. Will the cabinet secretary clarify that audits will be done to ensure that whatever investment is made in the system will have the effects that the Government said it will have?

**John Swinney:** Mr Martin is aware, from the spending review document that was published in November, that the Government has established a performance framework to measure the effectiveness of Government policy in reaching several national outcomes that will determine our progress in improving the quality of life of people in Scotland. The spending review document contains 45 performance indicators to measure specific elements of our progress, which the Government considers to be material in achieving improvements in the quality of life of our citizens. That information will be regularly and publicly made available and the Government's effectiveness will be scrutinised.

For wider audit issues in relation to public expenditure, the familiar assessments that are undertaken by Audit Scotland and other organisations will continue as the Government has set out.

## **Rural Policy**

**The Presiding Officer (Alex Fergusson):** The next item of business is a debate on motion S3M-1489, in the name of Richard Lochhead, on the Organisation for Economic Co-operation and Development review of Scotland's rural policy. I invite all members who wish to take part in the debate to press their request-to-speak buttons now.

14:56

**The Cabinet Secretary for Rural Affairs and the Environment (Richard Lochhead):** Having just returned from Norway—that small, independent and prosperous nation—a couple of hours ago, I tell Parliament that this Government takes seriously the opportunity to learn from other nations. I was there to support our extremely valuable seafood sector, but used the opportunity to meet my Norwegian counterpart to discuss the many agendas that are common to our two north-western European nations. I am keen to return to Norway in the near future to learn more about Norway's successful rural policies and its rural development agenda.

We have set time aside today for a short but important debate on the recent OECD review of rural policy in Scotland. As many members will be aware, representatives of the OECD visited Scotland in early 2007 and, after gathering evidence, took a few months to put together a report to assess and make recommendations on our rural policies. I do not doubt that all members agree that it is useful to compare and contrast Scotland with other countries and to have the insight of external specialists who can give us the benefit of their impartial views and advice.

With a new Government in Scotland, the OECD report is timely and comes hot on the heels of reports into the future of our rural communities by the Carnegie Commission for Rural Community Development, which has issued its charter for rural communities, and the Scottish Consumer Council, which looked at rural advocacy. All three reports recognise that our rural communities are special places and all three give us plenty of food for thought. One million of us live in rural Scotland. We all agree that it has tremendous assets that are renowned worldwide—our countryside, wildlife, culture and above all, the energy, enthusiasm and commitment of the people who make rural Scotland a great place to live.

We believe that the OECD report is a vote of confidence in the general direction of travel of the rural policies that have been adopted by the new Scottish Government. It is also a vote of confidence in the direction of travel that has been

taken since we won our own Parliament nine years ago.

A great number of positives were identified by the OECD. For instance, people in rural Scotland believe that they have a better quality of life and live in safe neighbourhoods. In contrast to many OECD rural regions, the population in rural Scotland is on the increase, as opposed to the decrease that has been witnessed in many European countries. Our rural regions have the highest levels of tertiary education attainment of any of the OECD nations. The OECD visitors also commented favourably on the level of innovation in rural Scotland, both in terms of quantity and quality.

As the Cabinet Secretary for Rural Affairs and the Environment, I must be the first to ensure that we do not allow the good news to mask the considerable challenges that face many of our rural communities. For instance, the report states that accessible rural areas—those closest to our urban populations—have the highest incomes in Scotland. That is a healthy sign and it is good news, but the report also flags up the significant challenges that face our more remote communities. It states:

“However, there is still a significant divide between remote and accessible rural areas with regions facing serious challenges in terms of ageing, outmigration, poor economic performance and access to modern services.”

The report comments that, in rural Scotland, employment is higher and unemployment is lower than in urban areas, but members will know from experience that many areas of Scotland suffer from low wages.

**Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD):** The cabinet secretary will know about the particular challenges that the Borders face. The OECD report touches on the enterprise framework. Does the cabinet secretary agree that a distinct area such as the Borders, which has its own challenges, deserves a specific budget that is allotted to economic development in the area to allow progress to be made? Does he support the retention of a specific budget for enterprise support for the Borders?

**Richard Lochhead:** Jeremy Purvis raises an important issue for the south of Scotland. I was struck by how the OECD report alludes to some of the challenges that face the south of Scotland. That is why it is so important that we digest the assessment in the report.

Members will be aware of the hidden rural poverty in many of the communities that we represent. Research is under way, in partnership with rural stakeholders, on many of the rural poverty indicators, so that we can measure rural poverty better. Therefore, although we can

celebrate the many positives that the report highlights, we in the Government and Parliament must never take our eyes off the significant challenges that many areas face. Last summer, Michael Russell and I travelled round many rural communities and have continued to do so. We listen closely to the concerns that are expressed to us when we visit rural communities and we learn from them.

The Government has not only listened; it has responded with action to what we have heard in the past 10 months. In a mere 10 months, the Government has established a track record on dealing with many of the challenges that face rural Scotland. Our document “Firm Foundations: The Future of Housing in Scotland” has a strong rural dimension and covers tackling the affordable housing crisis that exists in many rural communities. We have given a commitment to publish a consultation document on the introduction of a legislative presumption against closure of rural schools, in recognition of the detrimental impact that it can have on rural development.

We are cutting or abolishing business rates for small businesses the length and breadth of rural Scotland. As the Minister for Transport, Infrastructure and Climate Change said during question time just before the debate, we are launching a pilot scheme for a road equivalent tariff to benefit the Western Isles, which will allow us to consider whether that is the way forward in helping to build our islands into mainstream Scotland through economic development.

We have adopted ambitious renewable energy targets and given a commitment to develop a national food policy, which are two issues that the OECD identified as having big potential for rural areas in Scotland. I am sure that many members are struck, as I am, by the fact that the OECD identifies—with some alarm—that more than 100 agencies are involved in delivering rural development in Scotland. That vindicates strongly the Scottish Government’s decision—which was made after the evidence for the report was gathered—to streamline the number of public organisations that operate in Scotland, to ensure that those that remain are much more effective and efficient, and to tackle bureaucracy and red tape. Too many communities and businesses in rural Scotland are hampered by the complexity of the cocktail of rural initiatives and agencies. As members well know, we are addressing that.

Much of the commentary in the OECD report is thought provoking and deserves mature and considered debate in Parliament and its committees in the months ahead. For instance, the report questions the sector-by-sector approach to delivering rural policy and asks whether too much



emphasis is put on that, rather than on the alternatives. It also questions whether environmental expenditure as part of the Scottish rural development programme is likely to create jobs and economic growth—I am sure that many members disagree with that assertion. The report flags up the possibility of implementing rural development through a regional approach. It also addresses the enterprise agencies in Scotland, which we discussed through the intervention that I took earlier, and gives us food for thought on that.

**Jeremy Purvis:** Will the cabinet secretary give way?

**Richard Lochhead:** I have already given way on the subject.

Some crucial messages come out of the OECD report. First, as we all agree, rural Scotland is a diverse area. The needs of and solutions for the Western Isles are different from those in Galloway and the north-east of Scotland. Therefore, a one-size-fits-all approach to delivering rural development policy in Scotland is not appropriate. I hope that we can all agree that there must be more emphasis on our communities taking a bottom-up approach to rural development. We are pleased that that will be addressed, given that it fits well with the Scottish National Party Government's approach to rural development, which is about empowering rural communities.

I hope that all members accept that since 1999 devolution has been good for consulting, given the extension of consultation of rural stakeholders when policy is developed. The OECD report addresses that issue. However, I hope that we all agree that we need to move on to the next stage and empower rural communities to take more control of their destinies, rather than just be consulted by central Government.

The Scottish rural development programme reflects local priorities, as does the LEADER programme, which builds capacity in rural communities. Of course, the lottery has a role to play in that, too.

At the village hall summit, I spoke to about 200 people who represent community councils, community associations and village hall committees in Scotland. Members of such organisations do sterling work and give up much of their free time to serve their communities. I was struck by the number of remarkable individuals we have in rural communities in Scotland and by the number of inspirational community organisations that have taken their destiny into their own hands in seeking outside finance and expert assistance so that they can provide what their communities require, whether a village hall or some other facility. There are many skills out there, and we

must encourage those skills to be utilised for rural Scotland.

The Government has announced that it will soon appoint a rural development council. The first task I will give the council will be to consider the findings and recommendations of the three reports that I mentioned, in particular the OECD report, and to work with the Government on the way forward. We are determined to take more action to ensure that sustainable economic growth benefits not just urban Scotland but the whole of Scotland. That is essential.

Rural Scotland is a special place to live. If Parliament and the Government work with the voluntary, private and public sectors, rural Scotland can go from strength to strength. We congratulate the OECD on its report, which we welcome. I look forward to listening to members' speeches in the debate.

I move,

That the Parliament recognises the progress made in supporting rural development since the establishment of the Scottish Parliament; welcomes the analysis set out in the independent review of rural policy in Scotland by the OECD, and believes that this report and other reports on the future of rural Scotland published in recent months provide the opportunity to further develop rural policy to ensure that all our rural communities enjoy the economic, social and environmental benefits of sustainable economic growth and that they are empowered to greater influence their own destiny.

15:07

**Sarah Boyack (Edinburgh Central) (Lab):** I agree with the cabinet secretary that the OECD report is timely. The Scottish Parliament is in the early years of its third session, so now is a good time to review its first few years.

The report provides strong affirmation of the Scottish Parliament's success as part of the wider United Kingdom framework. Due to the policies and investment of the Labour-Lib Dem coalition, strong economic performance and a stable investment framework at UK Government level, there has been sustained investment throughout Scotland. Successful policies have grown the economy and there has been record investment in rural health services and schools. There has been investment in broadband, which is crucial to teleworking, and the development of a thriving service sector is also identified in the OECD report.

There has been major investment in Highlands and Islands Enterprise in order to boost our economic performance and to enable companies to develop and grow in some of our most fragile areas. The thriving economy around Inverness is a testament to the success of that focused approach. Work on local energy has been another

fantastic success. As a result of HIE's energy company work, loads of schemes have been set up in rural Scotland.

We have also had eight years of sustained investment in transport infrastructure. There are new airports at Stornoway and Kirkwall. There has been massive new investment in ferries and there has been sustained roads investment—the investment in the road to the isles is most notable. Tolls on the Skye bridge were frozen and then removed.

Our national parks have been established. Communities have been empowered through land reform, and crofting has been revitalised.

The OECD makes it clear that there have been major successes in our rural economies and in our quality of life. Health and education indicators show that rural areas are performing well compared with the rest of Scotland. Scotland's rural regions have the highest level of tertiary education attainment among predominantly rural regions in the OECD. The UHI Millennium Institute has played a crucial role in opening up new opportunities.

We should not focus just on work at Scottish Government level; there is a good story about local councils' investment on the ground and work on service delivery. People in the health service throughout rural Scotland have also played their part, as have thousands of others in rural areas—entrepreneurs, land managers, farmers and foresters.

However, some of the country's most fragile and remote areas have fared less well, and I very much agree with the cabinet secretary that we need to focus on the serious challenges of much lower levels of employment, lack of economic progress, rural poverty and low wages in those areas that the OECD report puts centre stage.

Therefore, I strongly agree with the report that we must avoid a one-size-fits-all approach to our rural areas. We can certainly learn from the coherent and very successful approach that has been taken in the Highlands and Islands, where there has been partnership involving key agencies, local authorities, Highlands and Islands Enterprise—which has become a powerful and really successful organisation—and the Government's big service departments in major investment programmes.

I suspect that the area that could learn the most from considering that kind of successful approach and putting in place new structures and partnerships is the south of Scotland, and I agree with the report that we need to focus more on that part of the country. I have attended a couple of meetings at which stakeholders in the area have made it clear that they need more focused and up-

front support from the Scottish Government, and I hope that this afternoon the Government will commit to putting this issue on the agenda and working with those stakeholders to identify structures that will maximise the economic opportunities that clearly exist.

The report identifies four key challenges for the Scottish Government. Our amendment would add a fifth: the particular vulnerability of rural areas to the changes in funding and reduction in investment that will come from the Scottish Government's new budget.

On land, property and housing, we agree that the crucial issues are effective land use planning, maximising the opportunities that are presented by our land, and ensuring that throughout the country we have sufficient stock to provide properties for sale and for rent. Ironically, a side effect of the success of accessible rural areas is increased competition for land, which has led to rising house prices. Many people who move into new housing developments in those areas are commuters who earn higher salaries in our major towns and cities; indeed, I know of people from my constituency who have moved out of the city to accessible parts of Midlothian and Fife. Because they earn more than the people who have traditionally lived in those areas, local residents who work locally and earn rural incomes cannot afford to get on the housing ladder. Moreover, because of the long-term impact of right to buy and the low level of housing association starts in rural areas, local people also have insufficient opportunities to rent. That must be part of the agenda.

Labour members also agree with the OECD report that economic diversification in sectors such as tourism and energy production is crucial, and believe that the rural development programme must be part of the solution in that regard. The question is whether the substantial investment that is being made in rural areas is having the maximum impact, so we need to work with traditional rural industries such as farming, forestry and crofting to identify not only opportunities for diversification but other new economic opportunities that will ensure the most effective use of our land resource.

However, as the report makes clear, we need co-ordination. All those developments must be linked into wildlife tourism, recreation opportunities, the development of renewables opportunities and the creation of sustainable economic performance. One thing that the Minister for Environment could do is to support the renewables industry, which is working with the farming industry on more small-scale and medium-scale renewables developments, particularly in wind power. It is a big mistake simply to take the

biofuels route; we have to consider existing technologies.

As for forestry, which is one of the success stories that were identified by the OECD, I hope that, when he winds up, the minister will give us some good news about the biomass fund, about which there is some uncertainty. In fact, I have been told that it is due to run out in March.

A key issue is to link our rural and urban areas to spread success from urban to rural Scotland and ensure inclusion. We are not starting with a blank sheet of paper—although agencies must think about, and plan more effectively for, the future. There are good examples of strategic planning in local authorities, which is partly why Labour strongly supported the development of the national planning framework.

I should point out that the outcry over the Borders rail link announcement was caused by the fact that it did not set out a start date, never mind a finish date, for the project. The irony is that it exemplifies the kind of project we need to link rural and urban Scotland. The disappointment throughout the chamber yesterday was palpable and genuine, although the Minister for Transport, Infrastructure and Climate Change thought that we were making it up. That vital project was kicked off by Gus Macdonald before the Parliament was established with an economic development paper that examined options, and I developed that into a full-blown analysis to let us progress the project, to enable people in rural communities to access economic opportunities in the capital and—crucially—to enable communities and companies in the Borders to develop the economic opportunities that could come from better connections.

The Scottish Government's budget could undermine such success. The voluntary sector is now finding that it is a victim of budget decisions and the price of the budget is undermining progress and new opportunities that we have created. Nicola Sturgeon's revised formula for health boards will reduce funding for rural health boards in the Borders, Dumfries, the Highlands and the Western Isles. Cuts are being passed on to rural communities from the budget. East Lothian Council faces a cut in its home-help budget and Highland Council is cutting teachers as well as its clothing grant, which helps the poorest families. Argyll and Bute Council has a £1 million shortfall thanks to the settlement that the Scottish National Party Government has handed down. Highlands and Islands Enterprise faces more than £50 million of cuts in the next three years: HIE is another success story that the SNP budget could undermine.

I hope that we will have a constructive debate and that the SNP will reflect on all our comments.

Progress has been sustained and we must not jeopardise it. We cannot turn our backs on Scotland's rural areas. We must move forward. I am happy to support the Tory and Lib Dem amendments, which would add references to issues that the Parliament needs to debate.

I move amendment S3M-1489.2, to insert at end:

"however is concerned that recent Scottish Government budget decisions have the capacity to set back progress made."

15:16

**John Scott (Ayr) (Con):** I declare an interest as a farmer and refer members to my entry in the register of members' interests.

I welcome the OECD report on Scotland's rural policy. In the short time that is available, I will highlight points of agreement and disagreement and the Conservative view on the necessary future policy direction. On a positive note, I welcome the report's conclusion that Scottish rural areas are unique and should be more cherished. I welcome the fact that in accessible rural Scotland, people apparently enjoy better health, safer neighbourhoods, a higher rate of home ownership and higher incomes, although the suggestion is that that is in spite of, rather than because of, Government policy.

On the negative side, the report says that in remoter areas, serious challenges need to be addressed in relation to ageing, out-migration, poor economic performance and a lack of access to modern services. For good measure, the report notes multiple indices of deprivation in our most fragile areas because of low incomes—for example, the gross domestic product per capita in the Western Isles is 60 per cent of the European Union average—as well as net out-migration, low enterprise formation and poor health. A picture emerges of a two-tier Scotland in which accessible rural Scotland—the parts that are close to our towns and cities—is much better off than our inaccessible and remote areas, as the cabinet secretary said.

As politicians, we must strive to improve poor or insufficient rural housing, employment opportunities where jobs are scarce, and accessibility, as Sarah Boyack said. However, that is easier said than done. We must recognise that, despite the upbeat tone of the Government's motion, all is not rosy in the garden of rural Scotland. It is undoubted that having more than 100 agencies working on rural issues is

"costly and ineffective, and that a 'proper joiner' needs to be found",

as the report notes. I welcome the minister's comment on that and on the rural development council.

Scottish Conservatives believe that the report's criticism that the Government's approach is centralised, poorly integrated, top-down and inflexible and lacks serious grass-roots involvement is justified. That position—which has, in fairness, evolved over many years—must now be addressed by the Government.

**Jeremy Purvis:** Does the member share my concerns about the removal of Scottish Enterprise Borders and the adoption of a more centralised model?

**John Scott:** I share Mr Purvis's concern, but I trust that other ways will be found to address it.

The report does not get it all right, as it suggests that the Scottish Government spends too much on supporting our rural areas through the rural development programme whereas—as *The Scotsman* helpfully pointed out last week—from 2000 to 2006, Scotland received £54 per hectare of farmed area, which is the lowest figure in Europe. The report gets that one wrong. Now is not the time to divert the meagre support away from land in rural Scotland, because that would put Scottish farmers and managers at an even greater competitive disadvantage compared with our European neighbours.

The December agriculture census figures that were released yesterday show a continuing trend of reducing beef, sheep and pig numbers on Scottish farms. That points out starkly the historic and long-term lack of profitability in those sectors and heralds likely further job losses in the most fragile sector in rural Scotland, because it is the labour-intensive sector in Scottish agriculture. Only when profitability returns to agriculture will people and staff also return. That is a key factor in today's debate, which focuses in part on deprivation in rural Scotland.

However, although the report is essentially an audit of recent times, the future is much brighter for rural Scotland, as food security is emerging as a key issue that politicians worldwide have to address. The World Bank has warned that, by 2030, food demand will double as world population rises. However, because of oil prices hitting \$100 a barrel, land is moving from wheat production to biofuel production, while global warming is reducing the food-producing capability of land north and south of the equator. Droughts have destroyed Australia's agriculture output in the past seven years and are now starting to affect New Zealand. To say that food security is an emerging issue is a gentle way of saying that food scarcity is just round the corner. The sooner politicians worldwide wake up and smell the coffee and start

to deal with that, the better. The OECD has also suggested—conservatively, in my view—that food prices will rise between 20 per cent and 50 per cent in the next decade. That will have huge implications for people on fixed incomes, particularly the elderly, as the era of cheap food comes to an end.

According to the United Nations, drought, deforestation and climate instability are responsible for the loss of 250 million acres of fertile soil each year and global warming is causing sea levels to rise dramatically. Indeed, the Intergovernmental Panel on Climate Change estimates that a 1m sea-level rise will cause one third of the world's total crop land to be swamped and rendered unusable. At the current rate of sea-level rise, that will happen in the next 100 years.

The scenario is stark. Fertile land will have to return to being farmed to its full capability. Set-aside will become a memory of the 20 years of plenty that we have enjoyed since 1986. We are debating the OECD report, but I urge the minister to consider devoting parliamentary time to a debate on food security and how to start addressing the problem. The issue cannot be ignored any longer. I know that the minister raised it at the NFU Scotland council meeting in Dunblane a couple of weeks ago.

In the meantime, more must be done to correct the underlying structural and infrastructural issues that are highlighted in the OECD report. For that reason, I will move the amendment in my name and urge Parliament to support it.

I move amendment S3M-1489.1, to insert at end:

“providing that the Scottish Government takes action to address the specific policy delivery concerns identified by the OECD including ‘centralisation and the lack of adequate bottom-up participation’, ‘weak integration’, ‘an overlap of different approaches and agencies’ and ‘the extreme complexity of both the design and the delivery system linked with rural policy’.”

15:22

**Mike Rumbles (West Aberdeenshire and Kincardine) (LD):** The OECD's rural policy review showed that, on average, rural areas in Scotland perform better on socioeconomic and wellbeing indicators than urban areas. The population in accessible rural areas generally has the highest incomes. Rural Scotland also demonstrates better health standards than urban Scotland with, for instance, three years' higher life expectancy, lower cancer rates and lower emergency admissions levels. Scotland's rural regions have the highest levels of tertiary educational attainment for predominantly rural regions anywhere in the OECD. Rural areas have higher employment rates and lower unemployment rates than urban areas.

The levels of neighbourhood safety are higher, as are home ownership levels.

John Scott asked whether everything in the garden is rosy. The OECD report also shows that there is a significant divide between remote and accessible rural areas, and that divide will not be bridged unless the Government invests sufficient funds in providing high-quality infrastructure, such as public transport and broadband, to our most remote communities.

The report also makes a strong case for decentralising the delivery of regional policy. That approach has long been advocated by Liberal Democrats and is certainly at odds with the SNP Government's current policy of dismantling the local enterprise companies and regional transport partnerships. It is also at odds with the Government's decision to cut Scotland's rural affairs budget by 6.5 per cent in real terms over the next three years.

**The Minister for Environment (Michael Russell):** That is not true.

**Mike Rumbles:** Oh, it is. I am surprised that the minister does not know what his own officials have said to the Rural Affairs and Environment Committee.

**Michael Russell:** It is not true.

**Mike Rumbles:** It certainly is. The minister gave the evidence to the committee.

I note that Richard Lochhead refused to acknowledge the damage that he is doing in his lack of response to the intervention by my colleague, Jeremy Purvis, on behalf of the Borders economy. However, those cuts in the overall rural budget—which the ministers now do not accept, although they did in committee—have to be paid for from somewhere. That is why our farmers have had to put up with the Government top-slicing their subsidies by increasing so-called voluntary modulation, which Ross Finnie held at 5 per cent but Richard Lochhead has pushed to almost double that level.

The Government has also reneged on the level of its commitment to fund a new entrants scheme for farmers. The promised £70 million has become only £10 million—and that is not new investment, because it has to come from existing agri-environment schemes. By the way, it turns out that the scheme is not so much a new entrants scheme, because to apply for it farmers will have to be under 40 but already the head of a farming business in receipt of subsidies. It is not so much a new entrants scheme as a succession fund for farmers. That is not the way to build a successful rural economy.

On getting rural and remote transport right, if we had time we could address the road equivalent

tariff trial, which seems designed to help only the islands that voted for the SNP. What a way to run a country.

Rural housing is a hugely important issue. What does the Government do instead of encouraging the take-up of the croft house grant scheme, for instance? It cuts its budget from £2.7 million to just £800,000.

**Michael Russell:** Will the member give way?

**Mike Rumbles:** I will give way later if I have time. I have only half the time that the cabinet secretary had to speak in the debate.

There has not been much help for our crofters. In my area of Aberdeenshire, the council-house waiting list has rocketed in the past year from 4,000 people to more than 6,500 people. There is a housing crisis in Scotland, but there seems to be a huge amount of complacency from the Government.

**Richard Lochhead:** Will the member give way?

**Mike Rumbles:** In a minute.

**John Scott:** Go on—take an intervention from the minister.

**Mike Rumbles:** I am not as deferential as John Scott.

If we do not address the crisis soon, it will have a dramatic impact on the economy. Last week's announcement by the Government that it is funding 100 new houses jointly with private enterprise by 2011 is mere whistling in the wind—it is only a start. In my view, that is a missed opportunity for radical action.

**Richard Lochhead:** Will the member give way?

**Mike Rumbles:** No.

Aberdeenshire Council is doing tremendous things to address the issue in its area—on its own, without the Government's help. As we would expect from a Liberal Democrat-led council, it is doing well. It is doing what we should all be doing. I hope that the Government will consider this. *[Interruption.]* The ministers should be quiet and listen—they might learn something. The council has three initiatives. First, from this week it is offering an increase in grant from £500 to £5,000 to people who occupy, but do not need, three-bedroom and four-bedroom homes and who are willing to move. That will help many of our homeless families.

**Richard Lochhead:** Will the member give way?

**Mike Rumbles:** I will if I have time.

The council is reported to be applying for pressured area status to prevent the losses that it

is suffering in its housing stock and it has decided to start building council houses again.

I mentioned just a few of the important issues that have to be addressed and I have identified some ways to make progress on them in our amendment. However, I make no apology for focusing on housing and the lack of action on it from our Scottish Government. There is a lot to do and, so far, the Government has failed miserably in its attempts to tackle the really serious issues that our rural communities face. We should not be cutting the rural budget and we should not be paying lip service to the rural housing crisis. What we need from this Government is not fine words and rhetoric, which is all we got from Richard Lochhead—we heard nothing specific at all—but real action. So far, the Government has failed in that regard and I urge members to support the Liberal Democrat amendment.

I move amendment S3M-1489.3, to insert at end:

“considers that the Scottish Government’s cut in funding for rural development and affordable housing does not match the OECD report’s recommendations, and therefore calls on the Scottish Government to bring forward substantive measures to tackle rural housing shortages such as Community Land Trust schemes, an extension of the Croft House Grant Scheme and the development of redundant farm land for affordable housing.”

15:28

**Aileen Campbell (South of Scotland) (SNP):** Today’s debate allows us to consider the OECD report as a test of policies that have affected the rural areas of Scotland in the past and to see where we can take our precious rural areas in future, in order that they may be prosperous and dynamic once again.

As members have said, there is much to be pleased about in the report. It shows that rural Scotland as a whole has good socioeconomic indicators compared with urban areas, with some parts displaying the highest GDP per capita growth in Scotland. However, there can be no room for complacency in protecting livelihoods and communities in rural Scotland.

I grew up in Perthshire and, although I do not represent that area, my upbringing there allows me to understand the experiences of those who live in the countryside in the south of Scotland. I grew up on my family’s tenant farm, which I loved as a child. People in the countryside have a sense of freedom, see the seasons change and grow up with a spiritual connection to the land. No report can ever relay that. However, when people hit their teens, the sight of the first daffodils in spring is less appealing when they feel isolated and remote.

In common with many young people who live in Scotland’s countryside, I left and headed for the city lights to study. The briefing from the south of Scotland alliance shows that the working age population in the south of Scotland is forecast to decline, partly because of young people leaving the area for education. I suspect that the tale is similar throughout the rest of rural Scotland. I am keen, therefore, for the Government to explore ways to keep young people in rural areas, which will ensure that those areas are sustainable, diverse and vibrant places that people want to stay in or return to.

People in rural areas seem to make do with their lot and feel that not having access to all the pleasures of 21<sup>st</sup> century life is a normal state of affairs simply because they live in the countryside. A woman came to me about problems that she was having with her heating. She is elderly and lives at the southernmost tip of Clydesdale, and had resigned herself to the fact that her problem had not been solved simply because she lived in the countryside. However, that should not be the case.

I had the pleasure, at the start of the year, of meeting people from the ambulance service in Biggar. They believe that, because they are operating in a rural area, they are forgotten about, despite the fact that they provide a vital and often life-saving service.

We should not forget that rural Scotland does not necessarily equate with agricultural Scotland. Rural South Lanarkshire and Ayrshire have farms, but they also have a vast number of mining villages. Living in those often forgotten about places are people who have seen coal and jobs come and go and have experienced a huge sense of environmental injustice. I urge the Government to remember those areas when developing a distinct rural development policy, as recommended by the OECD.

The fact that none of those points is new suggests that now is the time to use the OECD report to kick-start a rural renaissance, to show the people of rural Scotland that we value them and want to showcase what their areas have to offer. The OECD report gives good examples of ways in which that can be achieved.

We need to improve our infrastructure—my Corsa can testify to that, as it has taken an awful beating when travelling across the vast area of the south of Scotland.

**Jeremy Purvis:** Does Aileen Campbell agree with John Scott and me that it is important to retain a specific budget to support economic development in the Borders, which is part of the region that she represents?

**Aileen Campbell:** I will deal with the south of Scotland as a whole in the rest of my speech.

We definitely need to maintain the links between our urban and rural areas, not so the urban way of life can be imposed on the rural one, but so that people, including tourists, can easily access our countryside.

It will come as no surprise to ministers that I, as a South of Scotland MSP, will make a special plea for the area. The OECD report notes that the dedicated policy framework for the Highlands and Islands convention has worked well. Perhaps, as the south of Scotland alliance suggests in its briefing, now is the time to consider what lessons the south of Scotland can learn from that convention.

No one can deny that the south of Scotland has much to offer. From Burns in Ayrshire to John Muir's house in Dunbar, the south is festooned with history, culture and places to see and visit, including a world heritage site. Encouraging tourism is a no-brainer, and I hope that the cross-cutting work between the portfolios in the new Government manages to create a decent strategy to take advantage of the south of Scotland's cultural rich pickings. However, the Government will always be hard pressed to actively rejuvenate the countryside when policies from London mean that crucial lifelines such as post offices continue to close and fuel prices negatively impinge on our rural dwellers, and when Westminster abandons Scotland's farmers when they face economic ruin, such as after the foot-and-mouth disease crisis.

I remind the Government that rural Scotland does not simply mean farming Scotland. Further, it does not just mean the Highlands and Islands. Rural Scotland has been heartened by the work that has been done so far by the Government, and I urge ministers to continue on their path to rejuvenate our countryside and restore confidence in it.

15:33

**Elaine Murray (Dumfries) (Lab):** The OECD report demonstrates that Scotland's rural areas are performing relatively well. In some cases, they are performing better than the rest of the United Kingdom or the OECD average. For example, although GDP per head remains lower for rural areas than for intermediate and urban areas, the rates of growth in most Scottish rural areas are greater than the OECD average.

The report states that the Scottish rural development programme for the period up to 2013 is sound and has clear objectives. I appreciate that the cabinet secretary was good enough to acknowledge the role of the previous Executive in achieving that success. However, as Mr Lochhead

indicated, the report recommends improvements, and it is important that they are considered seriously and that complacency is avoided. For example, the report recommends replacing the traditional sector-based approach with a place-based approach. That change would see the introduction of a local, multisector, bottom-up approach that addresses the linkages between aspects of rural life, such as transportation and service needs, scarcity of land for development and affordable housing, and the need for further diversification.

As the MSP for the Dumfries constituency, I am particularly interested in the comments and recommendations that relate to the south of Scotland. The report mentions the challenges that the south of Scotland faces and the need for it to learn from the experience of the Highlands and Islands—an argument that I have propounded for some years, as has the south of Scotland alliance, which the local authorities in the area, together with Scottish Enterprise in Dumfries and Galloway and the Scottish Borders, established to promote the interests of our region and raise its profile.

I disagree with Jeremy Purvis on the new Scottish Enterprise structure. Under the new structure, a south of Scotland organisational entity has been created that offers opportunities to the region. I wish the organisation well. However, a change of remit will be required if we are to replicate Highlands and Islands Enterprise in the south of Scotland. That is why the Labour Party included in its manifesto for last year's election a pledge to investigate whether the HIE model could be rolled out to other areas—the obvious area being the south of Scotland.

In our amendment, Labour is not being needlessly negative. We have genuine concerns that some of the Government's recent decisions might hold back or reverse the gains that were made under the previous Administration. I will highlight those that affect Dumfries and Galloway. Like other authorities throughout Scotland, Dumfries and Galloway Council is constrained by having to work in a tough financial environment. It agreed to freeze council tax, but—as far as I can see—next year it will receive some £20,000 less in aggregate external finance.

If Dumfries and Galloway Council struggles to make efficiency savings, the voluntary sector organisations that make such a crucial difference to rural communities will likely be first hit by any cuts. Indeed, for some organisations, funding through the former supporting people stream has already been cut by up to 50 per cent for 2008-09.

As of 1 April, Dumfries and Galloway Council will take on sole responsibility for local regeneration. However, at a meeting with the acting chief executive of Scottish Enterprise Dumfries and

Galloway on Monday, I was advised that no staff will transfer from SEDG to the council to fulfil that function. In this difficult economic climate, Dumfries and Galloway Council will somehow have to find and recruit additional staff to enable it to take up that responsibility. If it does not, local economic regeneration impetus will be lost.

Moreover, there are concerns that local authorities are not being offered anything approaching the funding that they will need to undertake some of the regeneration projects that they will inherit. There are real fears about the fate of the Stranraer waterfront project in the Presiding Officer's constituency.

The Cabinet Secretary for Health and Wellbeing's recent decision on the review of health board funding is likely to cost NHS Dumfries and Galloway some £12 million per annum as funding for remote and rural locations is diminished. I understand that NHS Borders will fare worse, given that it is likely to lose £18 million. My constituents will suspect that their health services are losing money to fund the Government's decision to reverse accident and emergency closures in the central belt.

The week before last, an MSP made an unprecedented verbal attack on the town of Lockerbie, which is in my constituency. I am aware that the dereliction of town centres is a long-standing problem in Scotland, but of course I am upset that Lockerbie was singled out for attention by that MSP. I am also not too happy with the BBC's response on Sunday. In future, Scottish Enterprise will have no role in helping to regenerate town centres. I ask the Government to reconsider its approach to establishing a town centre regeneration fund that would lever in private investment to towns such as Lockerbie, Annan and Dumfries. I am sure that we will return to the subject. I hope that the Government will consider that proposal.

15:38

**Rob Gibson (Highlands and Islands) (SNP):** In this debate we have to deal with the gap between remote rural areas and accessible rural areas. My membership of the Scottish Crofting Foundation is included in the register of members' interests. In my speech, I will concentrate on the Highlands and Islands, particularly on an issue that has been important to the Highlands and Islands for the past 40 or 50 years.

When the Highlands and Islands Development Board was established, it was said that the Highlands was on the conscience of every Scot. However, it was also said that if the HIDB did not solve the problems of the islands, the remote

islands and remote Highland areas, it would not be a success—well, it did not.

There continues to be out-migration from the Highlands and Islands, which keeps the unemployment figures down. It is interesting to note that the latest unemployment figures for January show Wick at 3.3 per cent, Campbeltown at 3.3 per cent, Dunoon and Rothesay at 3.2 per cent, Uist and Barra at 2.8 per cent, Sutherland at 2.8 per cent, and Skye and Ullapool at 2.8 per cent. The figure for the northern isles is as low as 0.8 per cent, although they are a different kettle of fish—they have actually been able to adapt to the new world in which we live. The west coast and the islands off it must learn the lessons from the Highlands and Islands.

Given those figures for the long-term unemployed, someone must have a solution to deal with the situation. Will it come down to whether or not there is a crofter housing grant that is taken up by a large number of people? No—it will come down to making fundamental changes that were not effected in the last four to seven years. We will need to sort out a planning system that stops people living in the countryside. Sarah Boyack applauded the fact that many more people are living in Inverness. If she lived anywhere near there, she might realise that we cannot choose to live in the countryside within 30 miles of Inverness, because the planning system stops it. That is the planning system that we have inherited. It has to change.

**Sarah Boyack:** If Rob Gibson thinks that the Planning etc (Scotland) Act 2006 is so bad, why did he support it and why has the Scottish National Party not come up with one suggestion for changing it? The matter is Highland Council's responsibility.

**Rob Gibson:** It is the responsibility of the Government and the Parliament. We supported the idea of a national planning framework for major projects. The whole of the rest of the planning system, as it affects house building, is a problem that has yet to be solved. The price that people must pay for housing in many parts of the Highlands is far higher than can be afforded with the incomes that are available. If it costs six times the average salary to buy a house, people who are worst off will be unable to do so. That includes people in the Western Isles, on the west coast and in the north of Sutherland—the very places with the highest unemployment.

Of the many inhibitors in the Highlands and Islands, I will mention one or two. It will not surprise members if I return to the subject of the Crown Estate. That body takes large amounts of money out of our area and gives virtually nothing back, except the occasional research paper. We need to remove the levies that harbours pay to the



Crown Estate. The Parliament and the Government can do that. I hope that there is cross-party support for it. The rents that shellfish farmers pay to the Crown Estate have more than doubled in Orkney and have approximately quadrupled in Shetland over the past three years. The Crown Estate is sucking money out of areas that could be investing in themselves. We should stop that.

The OECD report discusses infrastructure. How should the Government deal with issues in remote and rural areas if the infrastructure, including trains—even trains to Inverness—has yet to be funded? Our inheritance from eight years of Labour-Liberal Democrat Government is that train services need to be funded in an even more difficult climate than before. What hope for the Transport, Infrastructure and Climate Change Committee's cross-party support for the far north rail line, which could open up the Pentland Firth and all the potential of the marine energy that will come from there? Steel and other materials will require to be carried by rail. Where are we going to get the money for that? The answer is that we will need to be a lot more innovative than we have been in the past.

The OECD report is set against the background that our incomes in Scotland are about 90 per cent of the average income for the European Union, which means that there will be no more structural funds. What happened in the past might have worked then, but it did not solve our problems. The OECD report points to how we must change our behaviour. We should recognise that the remote Highlands have a huge amount to contribute to this country, and we should spend on infrastructure and housing, in the hope that people will need to live there.

15:44

**Peter Peacock (Highlands and Islands) (Lab):**

When we discuss rural policy as a separate part of public policy, we tend to forget that rural dwellers have exactly the same objectives and ambitions as urban dwellers: they want high-quality education, high-quality health care, good jobs, good houses, and safe communities. Providing those in rural Scotland brings extra challenges for all public services because of our sparse population.

The OECD report is a useful analysis of what has happened in Scotland in recent years. In some ways it is optimistic, but it also highlights challenges. As ever, getting an external view on our affairs gives us a chance to reflect on, debate and renew our policy.

The OECD report challenges the notion—which we may have accepted in the past—that rural

policy is a subset of agricultural policy, when it should be the other way round. In bald financial terms, agriculture is one small and decreasing part of the rural economy. Its significance is greater than its employment value because of its continuing role in food production and the custodianship of our landscape, but the agricultural lobby is only one part of rural Scottish life. Agriculture should not dominate decisions about rural policy.

In thinking about the future shape of rural policy, it might help to reflect on the lessons that we have learned from the past. Rural Forum Scotland, which existed a number of years ago, sadly collapsed. That effective organisation was an important force for rural policy, and I am sorry that it was lost to rural Scotland, because it gave rural Scotland a voice and encouraged debate and policy formulation among rural people and rural agencies. Notwithstanding the minister's comments about the body that he is appointing, organisations that are independent of Government provide benefits.

Since the demise of Rural Forum Scotland, the LEADER programme has developed locally throughout Scotland. The Scottish LEADER programme, which is widely regarded throughout Europe as a model of good practice, now falls under the rural development programme. Unfortunately, under that programme, LEADER has been underfunded and limited to a narrow range of measures. That mistake should be put right. I urge the Government to beef up the LEADER local action groups and allow them to make decisions on allocating resources across all axes of the rural development programme.

Despite the improvements in rural life, much of rural Scotland is still fragile, and there are huge challenges to overcome. One of the biggest challenges is accessible and affordable rural housing. Thankfully, the Rural Affairs and Environment Committee will look into that, so I will not dwell on it. There is the challenge of low wages, which is not confined to the most remote communities. For example, the constituency of Moray has some of the lowest wages in the country. Job opportunities are required and need to be expanded in many parts of the Highlands and Islands, despite the improvements that have been made in recent years. We still have some areas with significantly declining populations, which challenges their viability. Massive infrastructure improvements are also still necessary.

I regret the Government's response to those challenges. Let us take as an example Highlands and Islands Enterprise, to which others have referred. HIE has made a huge contribution to the renaissance in the fortunes of the Highlands and

Islands in the past 40 years. It has invested in businesses and business support, in village halls and community capacity, in the arts and language, and in strengthening the voluntary sector. It is the envy of the rest of Scotland. The Government's response to that high-performing organisation has been to inflict the most savage budget cuts that the organisation has ever experienced. Never in 40 years have the Highlands and Islands seen such an attack on their development agency. HIE's budget and capacity have been reduced, it has lost some of its most experienced and skilled staff, and it has also lost the next generation of younger staff who could have been its future. If that is not bad enough, the Government is also removing key functions.

The damage is not confined to HIE. Highland Council is making more than £12 million of service cuts: library services are being cut, teachers are being offered early retirement, and janitors and cleaners are being sacked. Overall, more than 200 full-time equivalent jobs are to go across the council. As Sarah Boyack mentioned, there is a £1 million shortfall in the Argyll and Bute Council budget.

It gets worse. The minority SNP Government has changed the funding formula for health boards. As a result, Highland NHS Board's budget will reduce by £21 million a year in coming years and Western Isles NHS Board's budget will reduce by a massive 13 per cent. At the end of the phasing-in period, those two boards alone will be £30 million a year worse off. That is some demonstration of the Government's support for rural Scotland.

The RET pilot is neither RET nor a pilot. It benefits one part of rural Scotland at the expense of others. If someone can go to the Western Isles with a discount but not to Orkney, Shetland, Mull, Islay, Eigg, Muck, Rum or Canna, the policy is divisive and partisan, and favours one rural area over another.

I am sure that, if the OECD returns in three years' time, its report will say that not only could the Government do better, it must do better.

15:49

**Alasdair Allan (Western Isles) (SNP):** Like other members, I welcome the OECD report and its many sound recommendations. In its opening gambit, the report states:

"Rural Scotland as a whole evidences good socio-economic indicators as compared to urban and intermediate areas".

I do not wish to gainsay that, but it must be pointed out that, as other members have recognised and as the report acknowledges, rural Scotland is no more homogeneous than is urban

Scotland. If we categorised urban Scotland as either rich or poor, we would be dealing in some fairly serious generalisations. For instance, the report rightly points to the welcome economic growth and population increases that have occurred in the Highlands and Islands as a whole, but it also acknowledges, as members have mentioned, that such growth is far from uniform. The population decline in and economic fragility of areas such as the constituency that I represent are very real.

The growth in the rural population is welcome, but the report shows that areas of multiple deprivation in the Highlands and Islands coincide with the areas of greatest remoteness, not least among which are the island communities. It is no disrespect to either area to say that Harris is an economic world away from the commuter belt of Inverness. The reasons for that are not hard to find.

It will come as little surprise to members that, as far as I am concerned, transport policy is highly important in promoting economic growth in rural Scotland. As other members from remote and island constituencies will be aware, transport issues can pose difficulties for island communities and put a brake on economic growth. The OECD report makes it clear that Scotland's rural communities have immense economic potential. However, that potential, I contest, simply cannot be realised when it costs £350 to take a lorry one way across the Minch or when a tourist must be persuaded to part with £81 before he or she can take a car from Oban to Barra. At the moment, a company in my constituency spends more on exporting its product from Stornoway to Ullapool than on subsequently transporting it from Ullapool to Brussels.

I therefore welcome the fact that the Government has honoured its manifesto promise to pilot road equivalent tariff in the Western Isles, Coll and Tiree. I will leave Mr McNulty to assess and try to fathom his own reasoning—and taste—in comparing the RET policy to the policy of exterminating the Kurds. As far as I understand it, that is what he did this afternoon. If I am mistaken, perhaps he can explain where comical Ali comes in.

For some in the islands, the long wait for Labour to do something about the injustice of ferry costs has given RET a kind of unlikely, mythical status. Some wondered whether they would wait longer to see a ferry arrive from Ullapool offering RET tickets than they would to see one arrive from Tir nan Òg. Some in the local Labour Party called RET the economics of the madhouse; others were recently heard to make rash promises about how they would welcome the day that the SNP delivered on its promise. However, the

Government has delivered on its promise. I hope that the RET study will provide information on the kinds of benefits that, in time, I hope other islands will share.

Transport is not the only challenge that we face in rural Scotland, but the challenges as a direct consequence of transport links to the islands undoubtedly mean that, in the likes of the Western Isles, it is impossible to tackle other economic problems, such as housing and jobs. For that reason and many more, I welcome the report's findings and the fact that, at last, the Western Isles will be part of the national road network, with journeys priced accordingly.

15:54

**Cathy Jamieson (Carrick, Cumnock and Doon Valley) (Lab):** I welcome the opportunity to speak in this debate.

The Scottish Council for Voluntary Organisations briefing states:

"Thriving rural communities do not simply happen as a consequence of economic activity and land management. A successful rural strategy must address issues of rural community development, working with and building ... the social capital which bonds and animates communities."

I was therefore interested to hear the cabinet secretary refer to village halls, which are vital for our rural communities. It is important that local authorities do not see such resources as an easy cut when budgets are under pressure. I hope that, when he sums up, the cabinet secretary will be able to assure me that lowland rural communities will benefit from the funding allocation that was made available for village halls.

Rural schools are also important. The OECD report mentions education specifically, and highlights the fact that, to Scotland's credit, statistics show better performance in rural than in urban areas. That suggests that the challenge of delivering high-quality education in small and remote communities has been met. I draw that point to the attention of East Ayrshire Council in particular, which is proposing to close four small rural schools, and I ask South Ayrshire Council to take account of the OECD's comments in its consultation.

I would like the cabinet secretary to consider the innovative and imaginative proposal that has been made for the threatened Crossroads primary school in the East Ayrshire Council area. The proposal could be described as a new form of PPP—a parent-public partnership—and involves building a new school on land gifted by a local farming family, which would fund and build a biodigester to heat and power the building with renewable energy derived from cattle slurry. That would have the added environmental benefit of

removing the risk that the local River Cessnock poses to groundwater.

As the OECD report makes clear—and as Peter Peacock indicated—rural policy is not just about agriculture. However, we must not forget that agriculture is a vital component of our rural communities, especially for those who work on the land. The work of the Scottish Agricultural Wages Board is vital in ensuring that such people receive a living wage. Anyone who visited the stall set up by Co-operative Development Scotland and who has seen the work of the Scottish Agricultural Organisation Society will know about the role and value of co-operatives in the rural economy, to which they contribute £1.3 billion in turnover.

This week, all members have received a briefing paper from First Milk, which is one of the biggest agricultural co-ops, with 2,600 members. Despite the fact that farmers have banded together and taken a co-operative approach, the price that they receive is still below what they need to cover their costs. We must examine such issues.

As Sarah Boyack outlined, the OECD report acknowledges what has been done well, but makes clear that there is more to do. In the future, a more flexible approach might be needed. The issues that face Muirkirk at one end of my constituency and Barrhill at the other have much in common, but the solutions might be different. A joined-up approach is needed. Sometimes, that does not happen at local level, even with the best will in the world and the best policies, and even if the necessary funding is in place.

I will cite a couple of examples. In January 2006, a £5.2 million freight facilities grant was awarded to take timber off the road in the south of Scotland, but for various reasons the project has not gone ahead. The timber is still being moved by road, rural roads are in a poor state of repair, and a local rail link has been downgraded. Will the cabinet secretary look into what has happened to that money? Can it be reallocated to ensure that rural south-west Scotland benefits from it?

A second example of the lack of a joined-up approach relates to my constituent Alex Paton, who runs a farming business and the We Hae Meat local butcher's shop in Girvan. He has an opportunity to expand, but is having difficulty getting suitable premises in the area or planning permission to expand his existing site. He has been told that sites are available in an urban area some miles away, but that would defeat the point of his trying to produce food locally and provide jobs in a rural area—not to mention the extra transportation costs that it would impose.

A number of members have mentioned the fact that the report calls for a rural organisation to be established in the south of Scotland. I support that

proposal and hope that the cabinet secretary will give it due consideration. I understand that he will receive an invitation to attend a conference in Turnberry on 9 May that I will chair. I suggest that the conference will afford him an ideal opportunity to announce the establishment of just such an organisation.

15:59

**Robin Harper (Lothians) (Green):** The OECD report is a useful piece of research, but the Green party cannot agree with some elements of it. For example, the OECD complains that agricultural policy places too much emphasis on the environment. As the chamber can imagine, we do not share that view.

We are all too aware of the particular difficulties that Scotland's more remote communities experience. Just this week, 19 post offices across the Hebrides and the northern isles have been threatened with closure, and that process will continue unless it is understood that post offices are a vital public service to be paid for, rather than businesses to be closed if they make a loss.

We need support for local business incubators, and that is one of the reasons why I am in favour of the SNP motion. Although the motion does not say a lot, the last sentence says, in a sense, as much as we need with regard to the Government taking a bottom-up approach, which addresses one of the OECD's major criticisms. Local business incubators are very successful—80 to 90 per cent of businesses that take advantage of those facilities are likely to survive. Businesses that do not have access to local business incubators are more likely to fail—with a failure rate of about 50 per cent.

I believe that ministers take the concerns seriously, despite the rather complacent motion. I believe that the Conservative amendment will press them to do more—we welcome that amendment and will vote for it. In particular, we thank the Conservatives for not citing the OECD's environmental complaints.

I have the greatest respect for Sarah Boyack and the work that she has done, but I am sorry to say that the Labour amendment is devoid of content. Two things could happen: things could get—

**Sarah Boyack:** Will the member take an intervention?

**Robin Harper:** No, I am sorry. I will not take any interventions, as I have only four minutes—a minute has been chopped off my speech already.

The Labour amendment says that things could get worse, but they could also get better. The amendment is redundant.

The Lib Dems' amendment is more substantive, but we do not agree with their analysis—I presume that members will hear more about that from the minister—or with their top-down prescriptions. Unless the minister fails to provide sufficient reassurances—[*Interruption.*]

**The Deputy Presiding Officer (Alasdair Morgan):** Order.

**Robin Harper:** I would like to finish what I am trying to say without sedentary interruptions.

Unless the minister fails to provide sufficient reassurance about the plans for affordable housing, I do not expect to back the amendment in the name of Mike Rumbles. I acknowledge that the lack of affordable housing in rural Scotland is a severe problem—that is of as much concern to Green members as it is to any other member in the Parliament.

We want support for local businesses, community-led innovation and decentralised energy production, and we want schools and hospitals to source local produce. In farming, we would like support for co-ops; the revival of the organic action plan—if the present Government would be so good as to do that; and the strengthening of land management contracts. In transport, we want re-regulation of rural transport; dualling of as much of the northern rail network as is financially possible over the next 10 years; and the closure of the loopholes that prevent communities from exercising their right to buy, so that they can take advantage of that right.

16:03

**Jim Hume (South of Scotland) (LD):** This debate has highlighted the potential of rural Scotland. Sarah Boyack clearly stated the achievements of the Liberal Democrat minister with responsibility for rural affairs in the previous two Administrations. The Cabinet Secretary for Rural Affairs and the Environment, Aileen Campbell, Elaine Murray, Jeremy Purvis and Cathy Jamieson all mentioned the South of Scotland region, and I am concerned that the report states that there is a particular problem with social exclusion in that region. I am sure that the Deputy Presiding Officer and the Minister for Environment—like me, they represent the South of Scotland—agree that that is an issue.

The debate identified several areas of concern in rural Scotland: transport infrastructure; the availability of affordable housing, which Mike Rumbles clearly stated as being an issue; economic diversification; and links between urban and rural settings. If those areas are developed in the right way, they will help to tackle social exclusion. It goes without saying that we should be aiming for sustainable economic diversification,

whether through tourism, through supporting small businesses to expand, or simply by making the most of our countryside.

If pursued properly and in a balanced way, those activities would, in turn, create a sustainable environment for the vital communities that make up the fabric of the region. If rural areas were made economically attractive, people would be drawn into them and young people would be encouraged to stay in them. That would ensure a diverse population, which is particularly important. Depopulation and ageing are among the major threats to rural areas that are mentioned in the report and which have been mentioned in the debate—indeed, the cabinet secretary mentioned them.

Public transport infrastructure, which Rob Gibson mentioned, and affordable housing are key to sustaining a productive population. Only today, I opened a letter from a constituent who has been unable to obtain affordable housing. After months of trying all the local housing associations, he is now making plans to leave the town in which he and his partner grew up. They will take their skills elsewhere.

Public transport provision in Scotland is patchy, to say the least, and the situation in the south has again been highlighted. I look forward to hearing how the Government and the minister will address that problem in a rural context.

Robin Harper mentioned the environment. I was interested in Peter Peacock's views on the rural development programme. I have concerns. The report mentions the large funds that have been put into agri-environmental areas, but we are at the bottom of the European pile for funding. The situation was not helped by a certain Labour ex-Prime Minister bargaining funds away in 2005 from pillar 2 to the European Union general budget, at a cost to Scotland of £60 million, with nothing in return.

Regionalisation is heavily featured in the report as a more effective approach than centralising services. In light of the cabinet secretary's warm welcome for the report, his approach seems at odds with his Government's policy. I refer to two recent examples in that context: Scottish Enterprise, which many members have mentioned, and VisitScotland.

I was astounded to hear John Scott supporting Jeremy Purvis's stance on retaining funding for Scottish Enterprise Borders. In, I think, the very seat that John Scott is sitting in, the Tory party's Derek Brownlee welcomed the dismantling of the Scottish Enterprise structure. It is a little concerning to find out the Tories' views on that matter. I am disappointed that the cabinet secretary failed to promise specific Scottish

Enterprise funds for the Borders region. Given what I have said and the report's emphasis on the development of small to medium-sized businesses, on support for that sector and on creating new economic opportunities in tourism, for example, I am worried about any move towards a policy of centralising services, which would be nothing more than folly.

Peter Peacock mentioned that Highlands and Islands Enterprise is the envy of Scotland. The report recommends that a south of Scotland forum be set up and that that forum should work in a similar way to the way in which Highlands and Islands Enterprise works. I could not agree more with that recommendation. How will the minister respond to it in summing up, given that the SNP seems to be focused on centralising vital services? I would welcome the minister's views on that.

16:08

**Nanette Milne (North East Scotland) (Con):** I found the OECD review interesting. Many of its findings are in tune with what I have seen in Aberdeenshire in the past few years.

Much of rural Scotland continues to flourish, but it is clear from the review that rural Scotland looks nothing like it did 20 or 30 years ago. Changes in the population, the agricultural industry and the rural economy have brought new challenges. In Aberdeenshire, for example, there are significantly fewer farms now, the remaining farmers largely work unassisted, and farmers' wives are employed off the farms to supplement household income. The area is now home to many former city dwellers—many are from the south—who commute daily to Aberdeen and beyond. There has been a proliferation of small craft shops and farm shops with integral tearooms, which are dotted along the main roads, and other small visitor attractions that are designed to supplement people's dwindling agricultural incomes.

Overall, the review paints rural Scotland in a relatively positive light. However, it makes it clear that rural communities that are thriving are doing so in spite of, rather than because of, the Scottish Government. I agree with the cabinet secretary that all credit is due to the many community activists in our small towns and villages who are responsible for the successful communities that they work hard to sustain. However, rural policy is fragmented. Multiple agencies work on rural issues, but no one body focuses on a distinctive rural policy. The Government's approach to rural Scotland is seen as centralised, poorly integrated, top down and inflexible. It is thought that there is a serious lack of involvement at the grass-roots level. That must change if rural Scotland is to develop and thrive in the 21<sup>st</sup> century. I am

pleased that the Government agrees with us that there must be significant pruning of the agencies that are involved in rural policy.

The areas of specific concern to rural communities are many and diverse, and we have heard about a number of them this afternoon. John Scott highlighted the fragility of agriculture in parts of rural Scotland and the current threat to sustainable food production. Sarah Boyack voiced concerns about connectivity between rural and urban communities, highlighting the concerns in the Borders about the railway. Aileen Campbell and Alasdair Allan talked about the burden of high fuel prices on our rural and island economies, and concerns were expressed by Elaine Murray, Peter Peacock and others about council and national health service funding decisions that would have an adverse impact on several remote and rural areas.

Of the seven key priorities for action that are mentioned in the review, the four that I would single out are education, housing, the creation of an environment that is supportive of small and medium-sized businesses, and energy.

I have visited many rural schools throughout Aberdeenshire and parts of Moray during my time as an MSP, and the educational experience of the young people whom I have met has been second to none. Sadly, I have also been involved in several campaigns to save such schools from closure. The threat of school closure continues to hang over many rural communities; I hope that the matter will be addressed. I welcome Murdo Fraser's proposed member's bill, which would introduce a presumption against the closure of rural schools. I hope that the Government will abide by its manifesto commitment to introduce just such a measure.

I will not try to emulate the critique of Government policy that was made by Mike Rumbles, although I agree with him that there is an acute lack of appropriate and affordable housing in many rural areas. Local people often have to compete with high earners from elsewhere for properties that become holiday homes that are seldom used. In addition, many councils rigorously apply land use regulations that prevent building in the countryside, allowing development only within existing settlements. For example, in my experience, permission is usually refused when a retired farmer applies to build a new home for his retirement in order to release the original farm house for a new entrant to farming. I and my colleagues have been concerned about that for a long time—in fact, our manifesto for last May's elections mentioned it.

Although all developments must be sensitive to green-belt considerations, there is a need to move towards a more flexible approach where that is

appropriate. Like many other Scottish rural areas, Aberdeenshire is home to many small and medium-sized businesses, which are the backbone of the rural economy. They will welcome the Government's decision to fast track the promised cut in business rates—a decision that would not have been made if the Scottish Conservatives had not forced it on ministers. However, action is still urgently needed to improve water services and to cut the red tape that is strangling so many small enterprises.

We note the review's statement that it should be possible to expand the use of wind energy through the careful siting of wind farms and transmission lines as well as appropriate use of undersea and underground lines. That vindicates our championing of a moratorium on locally opposed wind farms pending a comprehensive renewables strategy. Inappropriately sited wind farms can cause damage to biodiversity, tourism and quality of life.

The OECD review is a welcome and timely contribution that makes it clear that the Government's approach to rural policy needs to change. There must be a move to a system that actively involves local people in planning for their future. If our rural communities are to be prosperous and sustainable in the long term, we must understand the importance to the rural economy of tourism, public services and diversification. A prosperous and sustainable future can be achieved only if concentrated efforts are made to engage with rural interests. That is why the Government must not hesitate in acting on the findings of the review.

16:14

**Karen Gillon (Clydesdale) (Lab):** I welcome the opportunity to participate in this important debate about future policy for rural Scotland. The range and quality of the debate shows the commitment of members across the chamber to rural Scotland.

I wondered why Mike Russell sidled up to Robin Harper during earlier speeches. However, during Robin Harper's speech, it became abundantly clear that the Scottish Green Party has become a wholly owned subsidiary of the SNP—although it does not seem to be getting anything out of that, if the list of policy priorities that Robin Harper outlined is anything to go by. The Government has simply left behind the organic aid fund and the land use fund—to name but two.

**Robin Harper:** All those Green party policies were in our manifesto and it was appropriate for me to mention them during the debate.

**Karen Gillon:** Robin Harper misses the point. The funds that I mentioned might have been in the

Green manifesto, and they were in place previously, but they have been cut by the Government that he seeks to support day in, day out.

Sometimes, and quite wrongly, a view persists that rural Scotland is just the Highlands and Islands. Although they are key areas in today's debate, so are many of the other areas that make up rural Scotland. I was brought up in Jedburgh in the Borders, a town whose educational attainment and health indicators are lower than average, and which has suffered from the decline of the knitwear industry. The town is now looking for a way forward. I know people who will be disappointed that yesterday the Government withdrew direct funding for the Borders rail link, leaving its future to the vagaries of financial markets that are themselves facing challenges. The withdrawal of £115 million in direct funding is a cut for the Borders. It means a lack of certainty for the project and it is bad news for economic development in that part of Scotland.

I have the privilege of representing Clydesdale, which is another important part of the south of Scotland. Recently, there have been significant improvements in the area. In transport, we delivered the new rail link to Larkhall, doubled rail services from Lanark to Glasgow and started a twice-daily service from Edinburgh to Carlisle. In education, the Labour-led South Lanarkshire Council has had for many years a policy of no school closures—just like the one that Nanette Milne advocated. It also has a commitment to an ambitious primary and secondary school estate programme that includes those rural schools.

The town centres in Lanark, Carlisle, Biggar and Larkhall are undergoing regeneration, and further work is being done in Forth, Lesmahagow and Kirkmuirhill. A dedicated rural task force has been established, which is another positive step forward. Progress has been made.

Like others, I was struck by the OECD report's comments about the south of Scotland; unlike others, however, I do not believe that the report should be considered as special pleading. There is considerable merit in the suggestion that a south of Scotland model similar to HIE should be established, and I am interested to learn how ministers believe that that can be progressed positively in the months ahead, so that we can take the south of Scotland forward.

The report indicates that social exclusion is a huge issue for the south of Scotland. It is a very serious issue, on which further work and research need to be undertaken so that we can fully understand the reasons for social exclusion, and so that distinct solutions can be found that can specifically target the needs of the area. Again, I

am interested to hear how the minister believes that we can take that work forward.

I want to focus on a few other issues on which I would welcome the minister's comments. The first is water rates and the consultation that is taking place on the extension of the exemption from charges for churches and voluntary organisations. In rural Scotland, churches, charities and voluntary organisations are disproportionate in number when compared with the number in urban Scotland, so failure to implement a further extension to the exemption would have a disproportionate effect on rural Scotland. In many places in rural Scotland, the church is the only local public building apart from the school, and if the exemption is not extended, there might be real problems for many of our rural communities. Churches might not be able to continue to provide services for their local communities. A similar case can be made for voluntary and charitable organisations. I hope that the Government will consider the consultation and provide a positive way forward for those bodies.

The second issue is town centre regeneration funding, which my colleague Elaine Murray mentioned. A solution to the problem can be found. Although Conservative members welcome the abolition of business rates, it remains to be seen whether that will lead to the upgrading and development of our village and town centres. Something must be done to provide the impetus for that regeneration. Perhaps the minister could comment on that today, or perhaps he could come back to the chamber with comments on how such regeneration in rural Scotland can be developed.

The third issue is the changes in the funding formula for the health service, which will bring about cuts. Members have mentioned those changes, but the report mentions consideration of the use of decentralised health skills and facilities to provide diagnosis, training and other health services. Although the SNP Government's decision on A and E services at Monklands hospital has been welcomed by people in the Monklands area, there is a direct consequence for people in Clydesdale, as a minor injuries clinic to provide local services will not now be introduced. That is regrettable, so I hope that the Cabinet Secretary for Health and Wellbeing will work with NHS Lanarkshire to tackle the issue. I believe that the move is a retrograde step for people in Clydesdale, because the clinic would have been an appropriate use of remote health services to deliver diagnostic services in the community, thereby cutting down on travelling time for people, reducing inconvenience and making health services local.

The final issue that I will mention is the de-ring fencing of the rural transport fund and how the

Government will monitor that. Members throughout the Parliament have councillors whom we trust but who will be under considerable pressure to provide many services in the coming year. How will the Government monitor how local authorities spend the money that has been disaggregated, to ensure that services that were delivered previously through the rural transport fund continue to be delivered and developed? We talk about connectivity. Bus services in many parts of rural Scotland, including mine, are often the only form of public transport, so it is essential that they continue to be developed.

The debate has been important. I am happy to support the Conservative and Liberal Democrat amendments.

16:22

**The Minister for Environment (Michael Russell):** On the whole, the debate has been positive. Several important comments have been made that set the context. I agree with Karen Gillon and other members that the debate is not about north or south; some of the most interesting and important points in the report are about Dumfriesshire and the work that the OECD team did in considering the issues in the south of Scotland, but other points relate to the north. Even more wisely, Dr Alasdair Allan—who is a well-trained person, because he once worked as my assistant—made the most important point of all. We cannot take a homogeneous approach to rural Scotland, just as we cannot take such an approach to urban Scotland. His point that it is untrue to talk about urban Scotland as one block doing well or being rich applies similarly to rural Scotland. Parts of rural Scotland are doing well, but parts are not doing so well.

The key point in the OECD report is that the policy has broadly worked, in that it has led to progress in rural Scotland. Last night, I had dinner with one of the OECD team. I was interested to learn from him that, when he is asked by rural experts throughout the world where interesting things are happening, Scotland is one of the countries that he gives in evidence. Interesting innovations are taking place in Scotland. I pay tribute to the previous Administration and to Administrations before that, because the development of the ideas has taken time. The obligation on the Government is to continue to make progress and to bring new ideas to the table if we can, informed by the OECD report.

That is a challenge, but it might be easier if we got a bit more credit for the work that we are doing. My friend Richard Lochhead's motion pays tribute to the previous Administration, as I have just done; alas, I did not hear Labour or Liberal

Democrat members say a single word about items being carried forward and built on, which is a pity.

I pay tribute to the OECD using the words of Robert Burns. The report has helped us by giving us the power that Burns mentioned when he wrote:

*"O wad some Pow'r the giftie gie us  
To see oursels as others see us!  
It wad frae monie a blunder free us  
An' foolish notion".*

We have heard some blunders and foolish notions during the debate. I will come to the great chieftain of the foolish notion, Mike Rumbles—[*Interruption*]*—there he is, and I will come to him shortly.*

Labour members made good speeches, so I regret that they made points that cannot go unchallenged, the most important of which were about centralisation. The OECD report talks about decentralisation, but Sarah Boyack wants the Government to decide how many home helps there are in Haddington and Karen Gillon wants us to decide how many buses run to Biggar. The outcome agreements will monitor the situation, but the days of micromangement are over.

I regret that there was scaremongering about other issues. Members who talked about the Borders railway were disgraceful. The difference between this Government and the previous Government is that the previous Government did not make the Borders railway happen, but we are making it happen. It is wrong to suggest otherwise.

Scaremongering in the chamber does rural Scotland no good. The OECD report refers to the positive, can-do attitude that we need. We do not need the negative, carping attitude that we heard from members of Opposition parties, with the exception of John Scott and Nanette Milne, who asked us to pay attention to issues that are raised in the report. We will pay attention to such issues.

I will respond to two more issues about which members were scaremongering. The moneys for the LEADER programme are being increased, not decreased—the facts are there. What perhaps annoyed me most was the scaremongering on rural school closures. Throughout my career I have fought for rural schools, for a personal reason—I am sure that members know that my wife is a primary head teacher and has been involved in a rural school closure—and because I acknowledge the virtue of rural schools. To hear from the former Minister for Education and Young People, who did not turn down a single closure proposal, that suddenly we are to have a presumption against closure—

**Cathy Jamieson:** Will Mr Russell describe the circumstances in which I agreed to closures in the



Dumfries and Galloway area, of which he should be aware?

**Michael Russell:** I repeat what I said. There should be a presumption against closures and the Executive is considering the matter. I am glad that members have changed their minds on rural school closures, but they should not preach to me about the issue.

I turn to the other side of the Opposition group—Mr Rumbles. It is a relief to see that Mr Rumbles has lasted the whole debate without walking out. That is delightful, although I would not have regretted it if he had walked out. Also, unlike most Liberal Democrats, he has not resigned in the past hour and a half. However, he has moved into a parallel universe. On planet Lib Dem, the SNP has been in power for the past three generations and has failed to do anything about anything, so Mr Rumbles must tell the SNP what it should do. The reality is that the housing crisis in rural Scotland grew out of all proportion under a Labour-Lib Dem Administration. The Government is moving to do things about that.

I give two examples. First, we are doing immensely important work through the rural housing task force. However, what we heard about the croft house grants scheme was entirely wrong. The fund was underspent; the figures for it for this year are net of receipts, which has not happened before; and the Shucksmith committee of inquiry on crofting is examining croft house grants and how we can develop the fund's use. Mike Rumbles lodged an amendment that is factually incorrect, which was irresponsible.

Secondly, there was an attack on my friend Mr Lochhead about the figures for rural development that have been given. I quote from a letter that the Rural Affairs and Environment Committee received—perhaps Mr Rumbles walked out before the committee considered it—which says, in relation to spending on rural development:

"resources at the disposal of the Scottish Government rise from £174.3m this year to £202.4/£210.4/£212.4m over the Spending Review. This is a real terms increase of 12.6%".

I hope that Mr Rumbles will do the right thing and apologise for what he said.

**Bill Wilson (West of Scotland) (SNP):** Walk out!

**Michael Russell:** He might well walk out. Perhaps that is how Lib Dems apologise.

The challenge for rural Scotland is to continue to develop our policies and to make a success of them. This Government is committed to doing that and will go on doing that. I would like to think that the other parties in the Parliament will join in that activity and ensure that rural Scotland succeeds.

Some speeches helped in that regard, but some were negative and carping. Rural Scotland will not flourish if all it gets is party-political bickering; it will, however, flourish if the right policies can be applied.

Members should support our motion, which praises our predecessors, and the Conservative amendment, which encourages us to try harder. The other amendments are, unfortunately, mere carping—and mere carping is not enough.

**Mike Rumbles:** On a point of order, Presiding Officer. I am concerned that the minister might have inadvertently misled the chamber. Members of the Rural Affairs and Environment Committee can vouch for the fact that his own head of the environment department has written to the committee, saying that over the next three years there will be a 6.5 per cent cut in real terms in the rural development budget. Presiding Officer, will you ask the minister to reflect on that and, if he has misled Parliament, to come back at the earliest opportunity to put the record straight?

**The Deputy Presiding Officer:** I am sure that the minister will do that.

## Public Appointments (Draft Equalities Strategy)

**The Deputy Presiding Officer (Alasdair Morgan):** The next item of business is a debate on motion S3M-1464, in the name of Keith Brown on behalf of the Standards, Procedures and Public Appointments Committee, on its report on the draft public appointments equalities strategy, "Diversity Delivers".

16:31

**Keith Brown (Ochil) (SNP):** The motion calls on the Parliament to agree that the Standards, Procedures and Public Appointments Committee's report and the *Official Report* of today's debate form the Parliament's response to the consultation by the Commissioner for Public Appointments in Scotland on her draft equalities strategy.

On 21 November, the commissioner lodged with the Parliament an equalities consultation document entitled "Diversity Delivers" that included a draft equalities strategy. The Equal Opportunities Committee and my committee then took evidence from the commissioner.

The Standards, Procedures and Public Appointments Committee's report not only reflects our views on the draft strategy but takes into account those of the Equal Opportunities Committee. Broadly, we give the strategy a warm welcome.

The boards of public bodies play a vital role in ensuring that those bodies meet the needs of the communities they serve by delivering services effectively and efficiently, and their work can impact on all aspects of Scottish life. Although the committee recognises and commends the work that is undertaken by board members, it also recognises that, at present, board membership does not fully represent the diversity of Scottish society.

The draft strategy seeks to improve the diversity of applications for board membership by raising awareness of the value of public bodies and the role of board members, by ensuring that the public appointments process is encouraging, accessible and easy to use, and by supporting future board members through a range of development and education programmes.

The committee agrees that increasing diversity in board membership can only benefit boards' decision making. The strategy highlights evidence that groups that are more diverse in their skills and knowledge have more potential than less diverse groups to consider a greater range of perspectives and to generate more high-quality solutions to problems.

At present, the Office of the Commissioner for Public Appointments in Scotland and the Scottish Government are responsible for ensuring that appointments are made fairly and openly. The Scottish Government decides on the form of publicity and the skills that are required for each post and ministers ultimately appoint the successful candidate, while the commissioner regulates the process through her assessors. The committee believes that extending that co-operation to delivery of the equalities strategy is a sensible step.

We heard evidence that equalities strategies can fail when there is no clear ownership of any recommendations, but the draft strategy proposes the establishment of an implementation group to ensure that each recommendation is delivered. We agree with that and with the proposal that the implementation group should allocate responsibility for each action that is proposed in the strategy.

We welcome the proposal that the implementation group comprise a diverse range of stakeholders including the commissioner, the Scottish Government's diversity champion, a chair of a public body and the Scotland commissioner of the Equality and Human Rights Commission. We agreed that membership could, if appropriate, be extended to include a Scottish minister or Scottish Government representative in order to raise the profile and importance of the strategy, but we agreed with the Equal Opportunities Committee that, given its role in scrutinising the final agreed equalities strategy, it would not be appropriate for a member of that committee to sit on the implementation group.

The Standards, Procedures and Public Appointments Committee commends specific actions in the strategy such as the communications campaign and the hub website and recommend that those aspects be more proactively targeted at the groups that are underrepresented on boards.

I reiterate the importance of boards and of ensuring that they reflect the diversity of Scottish society. Although we have recommended some changes, the committee believes that this draft strategy represents an important first step in encouraging applications for board membership from across civic Scotland.

I move,

That the Parliament agrees that the Standards, Procedures and Public Appointments Committee's 2nd Report, 2008 (Session 3): *Draft Public Appointments Equalities Strategy – Diversity Delivers* (SP Paper 65), together with the *Official Report* of the Parliament's debate on the report, should form the Parliament's response to the consultation by the Office of the Commissioner for Public Appointments in Scotland.

16:34

**Marlyn Glen (North East Scotland) (Lab):** I welcome the opportunity to participate in this short debate on the proposed strategy, "Diversity Delivers". I commend the consultation as an excellent first step towards ensuring that appointees to public bodies represent the make-up of the people of Scotland. As a member of the Equal Opportunities Committee and of the Standards, Procedures and Public Appointments Committee, I twice had the opportunity to scrutinise the strategy and to question the Commissioner for Public Appointments in Scotland. I commend her enthusiasm for delivering diversity.

Scotland has a diverse civic society that we should celebrate. We need to mainstream equalities in every aspect of public life, whether positions are elected or appointed. It is only right to encourage people from low-wage backgrounds, women, ethnic minorities and the lesbian, gay, bisexual and transgender communities to enter public life.

Public bodies are subject to the general legal duties to promote gender, disability and race equality, as well as to wider equality obligations not to discriminate on various grounds. The present figures on public appointments make hard reading: women make up only 35 per cent of board members and only 17 per cent of chairs of public bodies. It would be interesting to find out the make-up of the selection boards for those appointments.

In such a diverse Scotland, it is hard to believe that the best candidates are mostly white middle-class males. I agree with the committee's report that a more proactive approach is necessary and should be evaluated over a longer timescale. No targets have been set, for fear of tokenism, but that is still an important first step in ensuring that the necessary cultural step change occurs and that adequate monitoring takes place. The commissioner explained that that is why the equalities strategy focuses on applications rather than appointments. Achieving the desired changes is difficult because of the low turnover of appointees, reappointments and mergers.

The Scottish Parliament is right to have equal opportunities at its core and it is essential that Scotland's public bodies follow that lead. When public funds are used, there should be a public duty to recruit talent from Scotland's diverse communities.

Equality training is particularly needed for those who deal with selection for and recruitment to public bodies. It is essential that such organisations are aware not only of their responsibilities, but of how to implement them. An

absolute requirement is that chairpersons and selection panels have adequate training in equal opportunities, not just for selection, but for the work of public bodies.

I support the motion.

16:37

**Margaret Mitchell (Central Scotland) (Con):** I welcome the debate and thank members of the Standards, Procedures and Public Appointments Committee for curtailing their speeches to allow me to speak as the convener of the Equal Opportunities Committee.

At its meeting on 15 January 2008, the Equal Opportunities Committee took evidence from Karen Carlton, who is the Commissioner for Public Appointments in Scotland. The committee considered her evidence to be "forthright, well-reasoned and succinct" and said that the proposed strategy is

"an excellent basis for enhancing equal opportunities in Scotland's ministerial public appointments process."

The committee therefore decided that I should write to the Standards, Procedures and Public Appointments Committee and pass on all the evidence that we had heard so that it could be considered as part of that committee's report to the Parliament on the commissioner's consultation.

In my letter I expressed the committee's one concern, which was about the proposal that the convener or another member of the Equal Opportunities Committee should participate in an implementation group. The committee deemed that inappropriate, as a conflict of interest could arise if the committee scrutinises the OCPAS's strategy in the future.

I have insufficient time to go into the committee's evidence session in detail, but the following will give a flavour of the issues that it was keen to highlight. It noted that, as the appointments process usually involves a three-year term of appointment and it is the norm for an incumbent to be reappointed if they meet requirements, fewer appointments are made each year than might be expected.

Further questioning revealed that 75 bodies and 728 appointments fall within the commissioner's remit and that the boards of public bodies spend £11 billion of public funds.

From April 2006 to March 2007, 121 appointments were made. In the same period, there were 76 reappointments. Reviewing the process, the commissioner pointed out that the Government appears to believe that reappointment is based on performance to date. She has been at pains to point out to and to

persuade the Government that although performance to date is important, it is not the only criterion. Hence, she firmly believes that, on each occasion, there should be a review of what the minister expects the body to deliver and of the person specification.

The committee also noted that there is a perception among many people that public appointments are not for them and that there is a general distrust of the appointments process. That led the commissioner to ask whether we really mean what we say about encouraging diversity in applications. Furthermore, even if the distrust is overcome, the lack of confidence prevails.

The commissioner was in no doubt that only persistence will deliver the necessary changes in attitude and that if we give up people will merely believe that it was all about political correctness. She also stated that she has an aspirational target for applications from, for example, disabled people, who are quite hard to reach. She also said that research made it clear that women are less confident than men and less likely to apply, even if they are overqualified.

The Equal Opportunities Committee agrees that the public appointments process should be accessible to everyone and hopes that the public will have greater trust in the system that is proposed in the strategy. I hope that today's debate will encourage people from whatever background to apply.

16:41

**Hugh O'Donnell (Central Scotland) (LD):** The Liberal Democrats are fully supportive of the draft strategy.

As, like Marlyn Glen, I am a member of the Equal Opportunities Committee and of the Standards, Procedures and Public Appointments Committee, I listened carefully to the commissioner, Karen Carlton, and was appreciative of her knowledge and understanding of the area. One thing that struck me during our evidence taking was that although she had spoken to the Government's central appointments team about implementing the draft proposal, she had not at that stage had any conversations with any elected member of the Government. I hope that, in his closing speech, the cabinet secretary will reassure me that those conversations have taken place.

It is a fact that Scotland is a diverse community. That should be reflected as much as possible in all our institutions. It is incumbent on the public institutions that are under Karen Carlton's supervision that they comply with diversity requirements. Any education or information that we can provide to facilitate that is to be welcomed.

Like other speakers before me, I endorse the draft strategy.

16:43

**Dave Thompson (Highlands and Islands) (SNP):** I welcome the findings of Commissioner Karen Carlton's report, "Diversity Delivers". It explains our challenges but it also provides us with a number of ideas and opportunities.

I will raise a point that the commissioner makes on page 21 of the report, to highlight the fact that there are many types of diversity. She says:

"People's background, education, location, upbringing and other life experience are all non-visible factors that contribute to our diversity."

That means that diversity is indeed diverse and that we must look past the most obvious characteristics such as gender or race. The challenge before us is to promote not limited diversity, but equal opportunities for all in recognition of the promise that the Scotland Act 1998 made. We are challenged not to stack the deck against any one group, but to ensure that every group has a chance at succeeding and representing its entire community. The point is, of course, to bring the full spectrum of ideas and backgrounds to the table for the benefit of all.

Parliament is challenged to fix the obvious inequalities. There is a vast amount of work left to do before the boards of our public bodies reflect the society around them.

Using the usual parameters, which are the only measure available to us, we see, as Marlyn Glen said, that just 35 per cent of board members and 17 per cent of conveners are women, even though women comprise 52 per cent of the overall population. Even more startling is the fact that disabled persons and those with long-term illnesses are represented by just 2.5 per cent of members and conveners of public bodies, despite their accounting for 20 per cent of Scotland's population. Indeed, only ethnic minorities are represented at a rate similar to the proportion of the population for which they account. However, that is the overall figure; it is not shown city by city or region by region.

There are no figures to tell us how diverse the appointments to our public bodies are in respect of background, education, location, upbringing and other life experience, to which the report refers. How many non-graduates, working class people or Gaelic or Scots speakers get appointed? We know that all Scotland's citizens, of every race, gender and background, have much to give our great nation. I believe that, so far, we have seen only a glimpse of their gifts and a small part of their potential. The enormous talent, wisdom and sense of purpose shown by our public bodies can only

grow stronger and more representative through the efforts of this Parliament and initiatives such as those that are suggested in the report.

We face challenges with our public appointments, but the recommendations in the report are the right response: recognise our shortcomings, make plans to ensure improvement and promote the principles of the Scotland Act 1998 through the actions of this Parliament. I welcome the report's recommendations, value its findings and support the motion.

16:46

**Jamie McGrigor (Highlands and Islands) (Con):** I am a member of the Standards, Procedures and Public Appointments Committee and I am pleased to speak in the debate.

I agree that something needs to be done to ensure that appointments to the boards of Scotland's public bodies reflect the increasing diversity of the Scottish public. Current research shows that diversity can improve the performance of our boards by better facilitating communication and understanding between boards and their users.

The consultation document, which was prepared by the Commissioner for Public Appointments in Scotland, Karen Carlton, is excellent. Its most important facet is that it upholds the principle that merit should remain the most important criterion when new members are appointed. Instead of seeking the achievement of specific targets for increasing minority representation, it calls for a different kind of aspirational target by encouraging a greater diversity of people to apply. That is extremely important, because it would be a mistake to implement an affirmative action programme that could result in the appointment of candidates who are not best qualified to do the job. I have faith that if we succeed in attracting a qualified and diverse group of applicants, the problem will solve itself by providing ministers with an applicant pool that is diverse and not lacking in quality.

By suggesting that current board members should undertake equality training, the draft strategy goes beyond simply calling for something that will result in a more diverse pool of applicants. Although that seems reasonable, it is vague about what equality training entails. Will it have a significant impact on Scotland's boards and their members' skills, or is it just another level of red tape—I hope that it is not.

I am concerned that the infusion of new people with fresh ideas has not been addressed. A diversity of opinions and beliefs is important, and the fact that many of the same suspects serve on many boards can be counterproductive to the

ultimate goal of achieving diversity. We must work to ensure that boards are not over-monopolised by particular individuals or familiar faces wearing different hats.

I also take issue with the application process, which can drag on for many months because of its overly complex and bureaucratic nature. As a result, many qualified candidates might be put off out of sheer frustration, which hampers the aim of achieving greater diversity on boards.

I believe that the draft strategy's aims are honourable and well intentioned, but they are also ambitious. If its recommendations are implemented, the Government will have to be patient and give them time to take effect. I have confidence in the committee and the policies that we are debating and I support our convener's motion.

**The Deputy Presiding Officer:** I call John Swinney. Minister, time is on your side.

16:49

**The Cabinet Secretary for Finance and Sustainable Growth (John Swinney):** I always enjoy the opportunity to entertain Parliament in the last remaining stages of its day. I will try my best to do so today.

The Government welcomes the Standards and Public Appointments Committee's report. It is a positive response to the draft strategy and clearly supports and promotes the diversity agenda in public appointments. Diversity runs through the heart of what the Government aims to achieve through the public appointments system and, in a much broader way, through the heart of the Government's aspirations, as the diversity agenda runs through all our policy interventions and approaches.

The approach that the commissioner has taken in the draft strategy and the response from the Standards and Public Appointments Committee are welcome contributions to the process. The Government's response, which will be issued tomorrow, is also generally supportive of the commissioner's recommendations.

I will not talk about the Government's response. Instead, I will restrict my remarks to the Standards and Public Appointments Committee's report, which is extremely helpful. The Government recognises that it flags up some early achievements that can be made if we implement some of the recommendations in the committee report and the strategy that can be done with relative ease and at minimal cost. For example, the development of a hub website, which Mr Brown, the committee's convener, referred to, can be done more rapidly than has been envisioned by

the committee. My officials are already working to take that forward. We will keep Parliament advised of the steps that are taken in that respect.

I recognise the need, which is highlighted in the committee's report, to ensure that all groups have equality of access to information and opportunities. That must be central to any communication plan on the promotion of the agenda on achieving diversity in public appointments.

The Government recognises that an early achievement can be made in the shape of the hub website, but we must also be mindful of the fact that all individuals and all groups have the opportunity, in all scenarios, to gain access to information about public appointments. The Government wants to be able to satisfy the aspirations of the report. To do that, we must have a broad range of applications to undertake public appointments, so that we have the appropriate range of applicants to consider.

I agree with the committee that robust monitoring needs to be introduced to determine the effectiveness of all of the communication channels we use. The Government's wider marketing activities can obviously help in relation to such questions.

The committee report notes the breadth of recommendations in the draft strategy. There is a lot to be achieved, but that must be measured against the resources that are available. I therefore welcome the committee's recommendations on the setting of targets that are pragmatic and realistic with regard to the resources that will be available.

Management of the appointments process lies with the Scottish Government. I note that the committee supports the recommendations in the draft strategy about the creation of a centre of expertise. I can report that responsibility for the public appointments process has now moved into the Scottish Government's professional human resources area, to take advantage of the synergies between the recruitment of personnel to work in the Government and the public appointment process. We have adopted a cohesive approach to the identification of appropriate individuals to satisfy the appointments process. The Government will endeavour to ensure that that is taken forward efficiently and effectively.

The committee report welcomes the establishment of an implementation group. The Government also supports that approach. We recognise that the committee has given a great deal of thought to the approach to be taken, particularly in relation to the selection of the membership of that group. The Government

accepts the approach that the committee has suggested and the point that Margaret Mitchell made about the role of the Equal Opportunities Committee.

It is appropriate that a representative of the Scottish ministers is involved in the implementation group. We will of course discuss that further through the appropriate channels to ensure that it happens.

The Government agrees with the committee that the draft strategy offers an important opportunity to improve the quality, diversity and quantity of applications. On behalf of the Government, I take this opportunity to send out a message to wider Scotland of the Government's great willingness and enthusiasm to ensure that we broaden the quality, diversity and quantity of applications in the public appointments process.

A great deal more work will need to be done on the detail and the implementation plans, but from today's debate and the exchange of ideas and propositions from the committee and the commissioner, it is clear that we have taken a significant step in taking the recommendations forward. I look forward to seeing the commissioner's final report when it is published in September.

I assure Margaret Mitchell that the Government looks carefully at the performance of agencies, particularly in terms of the role that board members play, to ensure that they fulfil at all times the objectives that the Government has set them. That is one of the central approaches that the Government takes in this policy area.

**The Deputy Presiding Officer:** Far too many conversations are going on around the chamber. I call Cathie Craigie to wind up on behalf of the Standards, Procedures and Public Appointments Committee.

16:56

**Cathie Craigie (Cumbernauld and Kilsyth) (Lab):** I am grateful to the cabinet secretary for talking slowly. At one point I thought that I might have to stand up and read the committee report in its entirety.

I thank all the members who have taken part in the debate, the clerks to the Standards, Procedures and Public Appointments Committee and to the Equal Opportunities Committee, and all committee members who worked with the commissioner to reach this significant point at which to ensure diversity on the boards of Scotland's public bodies.

We know of people's willingness to contribute by becoming involved in improving the lives of the people of Scotland by way of their participation in

the running of public bodies. Board members play an important role and we must ensure that they are better able to meet the needs of the communities they serve.

It is all the more important today that boards reflect the communities they serve. Unfortunately, that has not happened thus far: women, minority ethnic and disabled people continue to be under-represented. Marlyn Glen, Hugh O'Donnell, and Dave Thompson mentioned that. Jamie McGrigor referred to differences of opinion on how we get to where we want to be, but he agreed that we want more equal representation on our boards. There was general agreement about the need to encourage more applications from women, people from minority ethnic organisations and people with disabilities.

The draft equalities strategy represents the first step forward in tackling the issues in a systematic way. It proposes action on all areas of the public appointments process, as Keith Brown outlined in his speech. It is also important that the strategy proposes detailed monitoring, which will ensure that the effectiveness of each action point is measured. That will, in turn, produce the robust evidence that will enable the various recommended actions to be improved and built upon.

Although the committee recommended some changes to the draft strategy, committee members are content that it is the right way forward. The strategy should help to ensure that all those who wish to contribute to our public bodies are given every opportunity to do so. I welcome the cabinet secretary's contribution to the debate and look forward to publication of the Government's response tomorrow. I am sure that the members of both committees that were involved in producing the report will read it. I hope that we can all work together with the Government to make the recommended improvements a reality.

I urge members to support the motion.

## Decision Time

17:00

**The Presiding Officer (Alex Fergusson):** There are seven questions to be put as a result of today's business.

The first question is, that amendment S3M-1490.1, in the name of Pauline McNeill, which seeks to amend motion S3M-1490, in the name of Kenny MacAskill, on the Scottish Law Commission's report on rape and sexual offences, be agreed to.

*Amendment agreed to.*

**The Presiding Officer:** The next question is, that motion S3M-1490, in the name of Kenny MacAskill, on the Scottish Law Commission's report on rape and sexual offences, as amended, be agreed to.

*Motion, as amended, agreed to.*

*Resolved,*

That the Parliament welcomes the publication of the Scottish Law Commission's final report on the law on rape and other sexual offences and supports the Scottish Government's announcement that it will bring forward legislation to reform the law on rape and sexual offences in light of the consultation on the commission's findings and proposed draft bill to ensure that Scotland has a modern and robust framework of laws in this area; recognises that the proposals from the commission are complex and that it is important for the Parliament to be given every opportunity to interrogate the bill when it is published, and therefore calls on the Scottish Government to aim at an agreement with the Justice Committee on a timetable which gives adequate time to properly scrutinise the bill.

**The Presiding Officer:** The next question is, that amendment S3M-1489.2, in the name of Sarah Boyack, which seeks to amend motion S3M-1489, in the name of Richard Lochhead, on the Organisation for Economic Co-operation and Development review of Scotland's rural policy, be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

**FOR**

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Curran, Margaret (Glasgow Baillieston) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Foulkes, George (Lothians) (Lab)  
 Glen, Marlyn (North East Scotland) (Lab)

Godman, Trish (West Renfrewshire) (Lab)  
 Gordon, Charlie (Glasgow Cathcart) (Lab)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Henry, Hugh (Paisley South) (Lab)  
 Hume, Jim (South of Scotland) (LD)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Kerr, Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 McArthur, Liam (Orkney) (LD)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Tom (Hamilton South) (Lab)  
 McConnell, Jack (Motherwell and Wishaw) (Lab)  
 McInnes, Alison (North East Scotland) (LD)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Mulligan, Mary (Linlithgow) (Lab)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Elaine (Dumfries) (Lab)  
 O'Donnell, Hugh (Central Scotland) (LD)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Park, John (Mid Scotland and Fife) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Scott, Tavish (Shetland) (LD)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stewart, David (Highlands and Islands) (Lab)  
 Stone, Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Tolson, Jim (Dunfermline West) (LD)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Whitton, David (Strathkelvin and Bearsden) (Lab)

#### AGAINST

Adam, Brian (Aberdeen North) (SNP)  
 Ahmad, Bashir (Glasgow) (SNP)  
 Aitken, Bill (Glasgow) (Con)  
 Allan, Alasdair (Western Isles) (SNP)  
 Brocklebank, Ted (Mid Scotland and Fife) (Con)  
 Brown, Gavin (Lothians) (Con)  
 Brown, Keith (Ochil) (SNP)  
 Brownlee, Derek (South of Scotland) (Con)  
 Campbell, Aileen (South of Scotland) (SNP)  
 Carlaw, Jackson (West of Scotland) (Con)  
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)  
 Constance, Angela (Livingston) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Don, Nigel (North East Scotland) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 FitzPatrick, Joe (Dundee West) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Goldie, Annabel (West of Scotland) (Con)

Grahame, Christine (South of Scotland) (SNP)  
 Harper, Robin (Lothians) (Green)  
 Harvie, Christopher (Mid Scotland and Fife) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Hepburn, Jamie (Central Scotland) (SNP)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Adam (South of Scotland) (SNP)  
 Johnstone, Alex (North East Scotland) (Con)  
 Kidd, Bill (Glasgow) (SNP)  
 Lamont, John (Roxburgh and Berwickshire) (Con)  
 Lochhead, Richard (Moray) (SNP)  
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)  
 Marwick, Tricia (Central Fife) (SNP)  
 Mather, Jim (Argyll and Bute) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West of Scotland) (SNP)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 McKee, Ian (Lothians) (SNP)  
 McKelvie, Christina (Central Scotland) (SNP)  
 McLetchie, David (Edinburgh Pentlands) (Con)  
 McMillan, Stuart (West of Scotland) (SNP)  
 Milne, Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Neil, Alex (Central Scotland) (SNP)  
 Paterson, Gil (West of Scotland) (SNP)  
 Robison, Shona (Dundee East) (SNP)  
 Russell, Michael (South of Scotland) (SNP)  
 Salmond, Alex (Gordon) (SNP)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Smith, Elizabeth (Mid Scotland and Fife) (Con)  
 Somerville, Shirley-Anne (Lothians) (SNP)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow Govan) (SNP)  
 Swinney, John (North Tayside) (SNP)  
 Thompson, Dave (Highlands and Islands) (SNP)  
 Watt, Maureen (North East Scotland) (SNP)  
 Welsh, Andrew (Angus) (SNP)  
 White, Sandra (Glasgow) (SNP)  
 Wilson, Bill (West of Scotland) (SNP)  
 Wilson, John (Central Scotland) (SNP)

#### ABSTENTION

MacDonald, Margo (Lothians) (Ind)

**The Presiding Officer:** The result of the division is: For 58, Against 65, Abstentions 1.

*Amendment disagreed to.*

**The Presiding Officer:** The next question is, that amendment S3M-1489.1, in the name of John Scott, which seeks to amend motion S3M-1489, in the name of Richard Lochhead, on the OECD review, be agreed to.

*Amendment agreed to.*

**The Presiding Officer:** The next question is, that amendment S3M-1489.3, in the name of Mike Rumbles, which seeks to amend motion S3M-1489, in the name of Richard Lochhead, be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

#### FOR

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)



Baker, Richard (North East Scotland) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Curran, Margaret (Glasgow Baillieston) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Foulkes, George (Lothians) (Lab)  
 Glen, Marilyn (North East Scotland) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Gordon, Charlie (Glasgow Cathcart) (Lab)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Henry, Hugh (Paisley South) (Lab)  
 Hume, Jim (South of Scotland) (LD)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Kerr, Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 MacDonald, Margo (Lothians) (Ind)  
 Macintosh, Ken (Eastwood) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 McArthur, Liam (Orkney) (LD)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Tom (Hamilton South) (Lab)  
 McConnell, Jack (Motherwell and Wishaw) (Lab)  
 McInnes, Alison (North East Scotland) (LD)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Mulligan, Mary (Linlithgow) (Lab)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Elaine (Dumfries) (Lab)  
 O'Donnell, Hugh (Central Scotland) (LD)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Park, John (Mid Scotland and Fife) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Scott, Tavish (Shetland) (LD)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stewart, David (Highlands and Islands) (Lab)  
 Stone, Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Tolson, Jim (Dunfermline West) (LD)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Whitton, David (Strathkelvin and Bearsden) (Lab)

#### AGAINST

Adam, Brian (Aberdeen North) (SNP)  
 Ahmad, Bashir (Glasgow) (SNP)  
 Aitken, Bill (Glasgow) (Con)  
 Allan, Alasdair (Western Isles) (SNP)  
 Brocklebank, Ted (Mid Scotland and Fife) (Con)  
 Brown, Gavin (Lothians) (Con)  
 Brown, Keith (Ochil) (SNP)  
 Brownlee, Derek (South of Scotland) (Con)  
 Campbell, Aileen (South of Scotland) (SNP)  
 Carlaw, Jackson (West of Scotland) (Con)

Coffey, Willie (Kilmarnock and Loudoun) (SNP)  
 Constance, Angela (Livingston) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Don, Nigel (North East Scotland) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 FitzPatrick, Joe (Dundee West) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Goldie, Annabel (West of Scotland) (Con)  
 Harper, Robin (Lothians) (Green)  
 Harvie, Christopher (Mid Scotland and Fife) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Hepburn, Jamie (Central Scotland) (SNP)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Adam (South of Scotland) (SNP)  
 Johnstone, Alex (North East Scotland) (Con)  
 Kidd, Bill (Glasgow) (SNP)  
 Lamont, John (Roxburgh and Berwickshire) (Con)  
 Lochhead, Richard (Moray) (SNP)  
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)  
 Marwick, Tricia (Central Fife) (SNP)  
 Mather, Jim (Argyll and Bute) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West of Scotland) (SNP)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 McKee, Ian (Lothians) (SNP)  
 McKelvie, Christina (Central Scotland) (SNP)  
 McLetchie, David (Edinburgh Pentlands) (Con)  
 McMillan, Stuart (West of Scotland) (SNP)  
 Milne, Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Neil, Alex (Central Scotland) (SNP)  
 Paterson, Gil (West of Scotland) (SNP)  
 Robison, Shona (Dundee East) (SNP)  
 Russell, Michael (South of Scotland) (SNP)  
 Salmond, Alex (Gordon) (SNP)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Smith, Elizabeth (Mid Scotland and Fife) (Con)  
 Somerville, Shirley-Anne (Lothians) (SNP)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow Govan) (SNP)  
 Swinney, John (North Tayside) (SNP)  
 Thompson, Dave (Highlands and Islands) (SNP)  
 Watt, Maureen (North East Scotland) (SNP)  
 Welsh, Andrew (Angus) (SNP)  
 White, Sandra (Glasgow) (SNP)  
 Wilson, Bill (West of Scotland) (SNP)  
 Wilson, John (Central Scotland) (SNP)

**The Presiding Officer:** The result of the division is: For 59, Against 64, Abstentions 0.

*Amendment disagreed to.*

**The Presiding Officer:** The next question is, that motion S3M-1489, in the name of Richard Lochhead, on the OECD review of Scotland's rural policy, as amended, be agreed to.

*Motion, as amended, agreed to.*

*Resolved,*

That the Parliament recognises the progress made in supporting rural development since the establishment of the Scottish Parliament; welcomes the analysis set out in the independent review of rural policy in Scotland by the

OECD, and believes that this report and other reports on the future of rural Scotland published in recent months provide the opportunity to further develop rural policy to ensure that all our rural communities enjoy the economic, social and environmental benefits of sustainable economic growth and that they are empowered to greater influence their own destiny providing that the Scottish Government takes action to address the specific policy delivery concerns identified by the OECD including 'centralisation and the lack of adequate bottom-up participation', 'weak integration', 'an overlap of different approaches and agencies' and 'the extreme complexity of both the design and the delivery system linked with rural policy'.

**The Presiding Officer:** The final question is, that motion S3M-1464, in the name of Keith Brown, on behalf of the Standards, Procedures and Public Appointments Committee, on its report, "Draft Public Appointments Equalities Strategy - Diversity Delivers", be agreed to.

*Motion agreed to.*

That the Parliament agrees that the Standards, Procedures and Public Appointments Committee's 2nd Report, 2008 (Session 3): *Draft Public Appointments Equalities Strategy – Diversity Delivers* (SP Paper 65), together with the *Official Report* of the Parliament's debate on the report, should form the Parliament's response to the consultation by the Office of the Commissioner for Public Appointments in Scotland.

## Eating Disorders

**The Deputy Presiding Officer (Trish Godman):** The final item of business today is a members' business debate on motion S3M-1331, in the name of Kenneth Gibson, on anorexia and bulimia. The debate will be concluded without any question being put.

*Motion debated,*

That the Parliament notes with unease that it is estimated that more than 80,000 people in Scotland suffer from anorexia, with 4,700 suffering from bulimia, and that the number of people diagnosed with eating disorders has increased by more than 15% since 1999, according to NHS Scotland; further notes that Eating Disorders Awareness Week takes place from 25 February to 1 March 2008; is aware that, despite guidelines issued by the health service watchdog in November 2006, Scotland still trails behind the rest of the western world in the treatment of eating disorders; is aware that the foremost expert on anorexia and bulimia in the United Kingdom, Bryan Lask, Professor of Child and Adolescent Psychiatry at the University of London, has voiced concern that the system for treating those with eating disorders in Scotland is "positively dangerous"; regrets that there is still no specific advice for GPs, despite every practice having patients suffering from eating disorders, and that only two private clinics in Edinburgh and Glasgow provide specialist care at a cost of around £3,000 per patient per week; believes there should be examination of why there is not one consultant specialising in eating disorders employed by the NHS in Scotland and that consideration should be given to how best to tackle this problem which can prove fatal and is deeply distressing both for patients and their families, and understands the need for ongoing research into eating disorders and their treatment.

17:05

**Kenneth Gibson (Cunninghame North) (SNP):** Let me first thank the 21 Scottish National Party, Labour, Conservative and Green members who signed my motion and made this debate possible. I also thank Professor Bryan Lask and Dr Sarah Cassar, specialists in the field of eating disorders who are both in the public gallery, and Dr Malcolm Kerr, who is a general practitioner in Arran. All those medical professionals have provided invaluable assistance in informing my contribution to the debate.

Most of all, I thank my constituents from Kilbirnie who first brought this matter to my attention and who are also in the public gallery. Their 16-year-old daughter lies seriously ill with anorexia in Huntercombe hospital in West Lothian.

Eating disorders are illnesses characterised by physiological and psychological disturbances in eating behaviour. Cutting-edge research, pioneered at St George's in London and at Huntercombe, has proved that 75 per cent of patients with anorexia suffer from a fundamental brain abnormality, identifiable by magnetic resonance imaging.

Anorexia nervosa is a serious psychological disorder characterised by a pathological fear of weight gain, leading to diminished eating, malnutrition and severe weight loss. Over time, the weight loss becomes a sign of mastery and control and can become both obsessive and addictive. Anorexia can be life threatening, with a mortality rate three times that of schizophrenia or manic depression. Although anorexia will ultimately prove fatal for around 10 per cent of sufferers—often after many years—other illnesses ranging from organ damage to osteoporosis are likely for those who do not recover fully.

Bulimia nervosa is episodic, insatiable binge eating, often associated with fear of being unable to stop eating. Weight may be controlled by self-induced vomiting, excessive exercise and the use of laxatives, diuretics or other inappropriate medication, possibly interspersed with periods of anorexia.

Both anorexia and bulimia occur primarily in young women in their teens and early 20s. Both illnesses are often triggered by issues of confidence, physical self-image and self-esteem. High-achieving young women may be particularly susceptible. The incidence of concomitant depression is high, and a third will have suffered sexual abuse at some time in their life. Although anorexia and bulimia can be fatal, thankfully the vast majority of people fully recover. However, a minority will need specialist, intensive hospital treatment.

How many people suffer from eating disorders in Scotland? The BBC quotes a figure of 80,000 on its website, many of whom may have had the disease on and off for many years. Of course, many cases do not present, so numbers can only ever be approximate.

The impact of an eating disorder sufferer on their family can be devastating. In the case of my constituent—whom *The Mail on Sunday* called “Lucy” to retain her anonymity—her family were at their wits’ end after having had to fight to obtain appropriate treatment for their daughter, who is now 16. In the words of her mother, Lucy is “physically and emotionally unrecognisable” from their happy-go-lucky daughter of only a year ago.

Local GPs were unable to provide the assistance that this young girl needed. Even when her weight plummeted to 5 stone 5 ounces, the family had to fight for the medical attention that their daughter needed. Lucy is now in Huntercombe hospital, along with five other patients from Ayrshire and Arran, fighting to recover. Why West Lothian? Because the only facilities available where national health service patients can be treated in hospital are at that facility—an NHS resource managed independently of the NHS—and at the Priory Hospital Glasgow.

My concerns in bringing the matter to the Parliament relate partly to the lack of hospital treatment available for eating disorders and the fact that such treatment is not available in specialist centres in other parts of Scotland such as Ayrshire—notwithstanding the fact that an NHS facility will be opened later this year in Aberdeen. Even in the community, where treatment is vital, resources are lacking. Treatment is multidisciplinary, leaning on the expertise of nurses, psychologists, dieticians, dentists and so on, and it takes place predominantly in the community. The role of GPs is pivotal.

The NHS Quality Improvement Scotland guidelines issued in November 2006 are authoritative but not well known in primary care. They incorporate recommendations from the National Institute for Health and Clinical Excellence in England. From advice given to me, it appears that guidelines should be modified specifically for use in primary care and promoted among GPs and other primary care staff. A review of the guidelines could be expedited to ensure compliance at health board level. A specialist service for eating disorders is vital, not just to treat the most severe cases but to promote excellence in this area of medicine so that an eating disorder service can be both community based and consultant led.

How should anorexic patients be treated? Treatment is complex and what is effective will vary from patient to patient. Treatment may include cognitive behavioural therapy, which challenges the patient’s assumptions about body weight and image by suggesting more rational and positive alternatives such as healthy eating, monitoring one’s moods, exploring healthy ways to deal with stressful situations and teaching the patient to think about food rather than weight. People who have the brain abnormality that has been identified can be treated using that form of therapy.

Other important effective treatments for anorexics include family therapy but, unfortunately, there are not enough qualified therapists in Scotland to provide that essential service. Nutritional education is important, too. It is significant that children are now being taught about healthy eating as never before. Hopefully, such education will give people a more rounded view of food that will augur well for the future. For anorexics, such information enables the design of eating plans that focus on maintaining a healthy weight.

It is crucial that sufferers are identified early and treated quickly and as close as possible to home. In Scotland, the core problem is the dearth of expertise and the lack of any training posts in the field. That issue must be addressed, although I

appreciate that specialists cannot be made to appear overnight. Undoubtedly, Lothian NHS Board has the most mature eating disorder services, but even its waiting lists for hospital out-patient services range from one year to 18 months.

Of course, the minority of patients who need hospital care should receive that care within the NHS to ensure that primary and secondary care is integrated. Experts have told me that the £495 a day cost of treating an NHS patient in private clinics could be greatly reduced if contracts were signed with the Scottish Government. Ministers could then state expected outcomes and invest the savings in community care services to give GPs access to improved eating disorder services. Community care for patients leaving hospital is critical if patients are to be discharged earlier and relapse rates minimised. Such care must be provided to patients for up to one year after they are discharged.

Anorexic and bulimic patients are mostly young, vulnerable women. They deserve to be treated early on in their illness and with sensitivity. I ask the minister to assure me that steps will be taken to ensure that that happens sooner rather than later.

17:12

**Mary Scanlon (Highlands and Islands) (Con):**

I welcome the debate that Kenny Gibson has initiated on anorexia and bulimia.

In preparing for tonight's debate, my starting point was to look at the Parliament's previous consideration of the issue. The Health Committee initiated an inquiry into eating disorders in June 2004, after receiving a petition on the subject. The petition called for appropriate treatment and resources to be made available across Scotland given that, without proper specialist treatment, eating disorders can become chronic and life-threatening.

As Kenny Gibson said, the 2006 report by NHS QIS made some impressive recommendations on the management and treatment of eating disorders. The report made so many recommendations that I cannot repeat them all, but they include:

"Care and treatment should be tailored to the needs of the individual ... based on a multidisciplinary model ... Individuals involved in school health should receive training ... A choice of psychological treatments ... Integrated care pathways ... access to assertive outreach, day hospital care and inpatient care intensive treatment".

The recommendations are very impressive indeed, but what is not impressive is that very little appears to have been done since the report was

published in 2006. The Health Committee's 2005 report also found that the provision of

"eating disorders services has not been treated as a priority by health boards".

A report from the mental health and well being support group noted that upwards of 100 adults might be expected to be admitted to hospital care each year in Scotland. Precise estimates for the number of patients with eating disorders in Scotland are difficult to calculate, given that it is likely that many sufferers do not seek medical help. The figure of 80,000 to which Kenny Gibson's motion refers is likely to be a gross underestimate.

Currently, we have no NHS specialist in-patient beds for anorexia nervosa in Scotland—although I very much welcome the plans for a new unit in the north-east of Scotland—despite the fact that the condition has the highest death rate of any psychiatric illness. Often, the only available option is for patients to be referred to unsuitable mixed psychiatric wards, which can have a detrimental effect on the patient's psychiatric and emotional state. Although specialist in-patient care is provided in Edinburgh and Glasgow, I understand that many patients are referred to hospitals in England.

Although in January 2004 guidelines were issued to all health care professionals in Scotland, as Kenny Gibson indicated, they do not seem to have filtered through to general practitioners, psychiatrists, teachers, dentist, midwives and others who come across eating disorders in their work. There are few community facilities in Scotland to support patients and their families after discharge, which frequently results in patients suffering relapses.

Approximately 90 per cent of all cases involve women. I am concerned not just about eating disorders themselves, but about the effects that they can have on future life and health. Those effects include poor circulation, brittle bones, infertility and kidney damage. Estimates suggest that 30 to 50 per cent of patients go on to experience long-term chronic problems such as the development of osteoporosis and tuberculosis. Eating disorders also limit significantly the capacity for reproduction of female patients. Support given at the time when it is needed can alleviate many future problems. I highlight again the potential problem of infertility.

Whereas there has been a lack of action—or insufficient action—on the issue in Scotland, the Welsh Assembly has taken dramatic and decisive action to combat eating disorders. It established a cross-party committee on the issue to compile a comprehensive analysis of eating disorders in Wales, including recommendations from the NHS

in Wales on provision and support for patients and their families. The committee has managed to raise awareness of eating disorders across Wales and has called for proactive campaigns that specifically target young women in schools and universities. It has also promoted the need for increased training in the health sector to equip front-line staff with the skills to identify and to deal effectively and efficiently with patients suffering from eating disorders.

As well as establishing proper health guidelines for medical practitioners, the Scottish Government should endeavour to ensure that individuals in school health teams receive training in eating disorders and to establish communication networks. I hope that the Government's review of the responsibilities of school nurses and school health teams will address that issue. If a person with an eating disorder—especially someone who lives in the Highlands and Islands, the area that I represent—is unwilling to accept assessment or referral to secondary care, it would be wonderful if GPs could seek advice and support from specialists in eating disorders, through either a managed clinical network or another pathway.

I thank Kenny Gibson for bringing this issue to the chamber and hope that the Scottish Government will respond positively to the debate.

17:18

**Christine Grahame (South of Scotland) (SNP):** I congratulate Kenny Gibson on securing the debate. As he said, eating disorders are complex diseases and it is likely that they result from a combination of factors, events, feelings or pressures rather a single cause. Someone may be unable to cope at work or university or may have family stress. Sometimes eating disorders are related to seeing skinny models on the television, but that is an anecdotal, stereotypical view of the issue that is not always well founded.

Eating disorders are less about food than about control of what is happening in people's lives. I found it useful to look at some case studies on the internet. In one case, someone went on a diet during their second year at university. Within a year, she was not allowing herself to eat from any food groups and was living off grapes. She was living a horrible life, could not eat and was starving; all that she could think about was food. She could not get out of bed, go to university or hold a conversation—she just wanted to die. Why should someone deny themselves the basics of life? Those who are affected do not know the answer to that question, which has a mixture of psychological, emotional and physical components.

As Kenny Gibson said, physical changes take place as a consequence of eating disorders. We have to consider the illness as emotional, and to acknowledge that thinness is an outcome rather than the start of the problems.

The girl whom I mentioned says that she thought that she

“had to be thin to be loved, and to be successful and to be cared about. Thin is so much more than a tiny, four-letter word to anorexics.”

For her—although not all anorexics are like this—it meant

“love, caring, success, popularity, intelligence”.

To some extent, that is reinforced by images in society. One needs only look at the Oscars, where some of the women could barely be seen when they turned sideways—that is not true of me. The image that is presented is that that comprises beauty and success, and that if someone is not like that, they are not successful.

The girl changed her whole life—she did not get up until 3 o'clock in the afternoon, because that meant that there was less temptation to eat. She had a structure to the day of going to the shops to fill in time—anything, rather than sit down and eat. Her eating patterns became very formalised—she had the same plate, and the same amount of the same salad, at the same time every day. Whenever she digressed from that, she thought that she had failed. It was about control, and the food was controlling her.

Another girl was described as an atypical anorexic—she was rather flattered at the time, as she thought, “Well, if I'm going to be anorexic, I won't be ordinary.” The point is, however, that all anorexics are atypical—each one is different. That woman had a great life, a happy marriage and a good job, but for some reason she began to lose confidence. A tiny little knock happened in her life—she did not get to travel to a job somewhere that she wanted—and that seemed to set off a chain reaction. She started to live by rules, and the rules became about the way in which she dealt with food.

She had fixed objectives—the case studies frequently come back to that—that were utterly non-negotiable, and she was negotiating with herself. She was negotiating with the fridge and the larder, and her hunger. She did not allow herself to do something else that she wanted to do, because that would give her a sense of failure. Before I move on, I will mention the other side of the story. The father—her carer—watched it happening. He says:

“Anorexia is a secret illness that thrives on deception and half truths ... Anorexia defies logic. Its very essence, the idea that you can exist without food, turns all ... assumptions on their heads.”

His daughter, who was anorexic for 11 years, was lying to him all the time about whether she had eaten.

I have seen people in the Parliament—other members have probably seen them, too—who are not eating properly. They look as if they are eating food, and they fill a plate, but they just take little bits. There are one or two who are very thin indeed. Many years ago, when I was in practice in the sheriff court, I remember a young woman who was appearing as a lawyer before the sheriff. The rest of us were so worried about her that we spoke to the sheriff, who discreetly spoke to the law firm that she worked for. People do not like to interfere if they see somebody in that state, but we were driven to that because she looked so fragile.

We must consider what we can do to deal with the issue, which is complex. I welcome the north-east facility that is being introduced as a consequence of the work of Grainne Smith and the report by the former Health Committee, to which Mary Scanlon referred. We must also consider the day-to-day arrangements, such as educating GPs. The point about school nurses is also important. Neighbours and friends should not be frightened to raise the issue when they see that someone they know is not just looking a nice size 10, but is sliding right down to a size 6. We should not back away from such issues, as I stressed in the example that I gave.

I am grateful to Kenny Gibson, who has provided detail on the matter and done a lot of research. In my own patch, the Borders, which has a population of more than 110,000, there is hardly any activity. I do not believe that there are no young women there, especially in the 15-to-25 age group, who are either anorexic or bulimic and suffering from an eating disorder, and who need help. The subject is extremely interesting. The trouble is that when a committee publishes a report we think that we have dealt with the matter, but we have not. The Parliament needs to address that issue.

17:25

**The Minister for Public Health (Shona Robison):** I congratulate Kenny Gibson on raising such an important issue, and welcome his constituents to the gallery. I wish their daughter well. I thank those who have spoken for their thoughtful speeches.

I confirm that we have already published guidance that specifically highlights the role of general practitioners and primary carers in the care of those with eating disorders and the management of eating disorders. I will return to that matter later. I also confirm that NHS Scotland

has practitioners who are expert in eating disorder care.

It is notoriously difficult to calculate the exact number of people with eating disorders, given the likely numbers of those who do not seek help. That may be why the figure on the BBC website that Kenny Gibson cited is so high. We know that there are around 3,000 presentations of people with eating disorders in primary care annually, and that there are around 300 hospital admissions. That is a significant number of people.

We are raising awareness and working on reducing stigma to reach as many people as possible. It is important that services respond and meet the needs of all those who are affected, their carers and their families. No person who requires to be admitted to a hospital will be denied admittance. All decisions on care are taken by clinicians, and they have no artificial target weights in mind. Weight is an indicator, of course, but care decisions are based on the whole person's need in every case. What happened in Kenny Gibson's constituency case should not have happened.

I have listened to the genuine concerns that have been expressed, and accept we have more to do to achieve all that we want to achieve for those in need. That said, NHS boards and partners are making real progress with enhanced and improved services, which include a new NHS eating disorder in-patient service, which I shall say more about shortly.

NHS Quality Improvement Scotland has published clear, evidence-based guidance for all health care professionals on the management and treatment of eating disorders. That guidance recognises that the first point of contact for the majority of people with an eating disorder is the primary care team. A dedicated chapter on the role of the GP and the primary care team is included in the guidance. The importance of the earliest possible intervention and support for people with eating disorders is also emphasised. Kenny Gibson spoke about that. Such attention fits entirely with our published commitment to increased access to expanded psychological therapy services, the importance of which we recognise. All professionals should look at all times for any signs that suggest a disorder. That is routine for GPs, but it is important that that is done in other settings. Mary Scanlon made the point that signs of a problem can be spotted in schools. However, we should ensure that not only school nurses, but teachers, dentists and other health professionals are looking out for signs that suggest a disorder and that they are confident about what they are looking for. Wider observation has a part to play in early detection and referral.

The guidance was extensively distributed, including to all GP practices. It was followed last

year by a linked patient guide that emphasised the role of GPs and contained specific advice for patients. It included specific advice for children, younger adults and families. That guide was distributed to all GP practices and more widely.

I want to offer a clear assurance about the expertise of consultants, GPs, nurses and other staff. Although perhaps they are too modest to identify themselves as such, there are consultant psychiatrists expert in eating disorder care who work day in, day out with and for NHS Scotland. I will name but one. Dr Harry Millar is lead clinician for the north of Scotland eating disorder managed care network. He was also influential in the creation of the new NHS in-patient unit and service that is to open this year at the Royal Cornhill hospital in Aberdeen. Furthermore, every NHS consultant psychiatrist, including those who work in adolescent services, is trained to manage people with eating disorders as part of the key core competencies to be achieved in their training programme. Continued attention is also given to ensuring that skills meet needs throughout consultants' continuing professional development.

**Mary Scanlon:** I talked about managed clinical networks and integrated care pathways, and the minister mentioned that Dr Harry Millar is the lead clinician for the north of Scotland eating disorder managed care network. What area does the managed clinical network cover? Do people throughout Scotland have access to it, or is it just for the north-east?

**Shona Robison:** I understand that it is just for the north-east, but the lessons from it should be learned elsewhere, which is what we always want with managed clinical networks. The idea is that those skills and that expertise should be rolled out to other areas. I will consider what lessons can be learned from the work that is being done in the north-east and whether—to answer Christine Grahame's question about the Borders—we should develop managed care and clinical networks in other areas of Scotland. I will follow that up.

GPs and their practice teams assess their education and training requirements on an ongoing basis in response to the needs of patients, as they should. NHS boards, local specialist and community health teams, NHS Education for Scotland, the faculties of the Royal College of General Practitioners and the deaneries all play their part. NHS Education for Scotland is taking the matter further with its plans to develop new eating disorder education and training resources. I hope that that offers some reassurance on the ongoing and available expertise, training and education.

**Kenneth Gibson:** Judging by the experiences of the people who have contacted me, I believe

that there is still a real issue on the ground about whether people are tapping into the guidelines. It is one thing to issue guidelines; it is another matter whether people are using them on a day-to-day basis.

The minister has talked about there being 3,000 presentations a year. However, somebody can have anorexia for 20 years, which is probably why the figures are so disparate. If there were 3,000 presentations a year over 20 years, that would give a total of 60,000 sufferers—and the figure could be even higher.

**Shona Robison:** Kenny Gibson raises an important point. I would be willing to undertake a review of the uptake of and knowledge of the guidelines and to enter into discussions with the Royal College of General Practitioners about what other support might be offered. I am happy to take that forward from the debate this evening.

The vast majority of care for those with eating disorders is provided in community settings through primary care and community teams, including social work services and the voluntary sector, with access to hospital when it is required. To deliver the best care, we recognise the worth and value of all partners, which means working and contracting with independent providers. To that end, we are discussing appropriate arrangements on national price, priority and quality with the independent providers for the care that they provide. That is what Kenny Gibson called for, and I hope that he is reassured on that point.

I mentioned new NHS eating disorder services in Scotland. I am delighted that work is already under way to establish the north of Scotland regional in-patient service at the Aberdeen Royal Cornhill hospital, which is due to open this year. The 10 new in-patient beds will form part of the north of Scotland eating disorder network. This new NHS provision is a significant development and offers a clear signal of the Scottish Government's and NHS Scotland's commitment to best care. I am sure that there will be lessons to be learned from that development.

By the end of the year, NHS Scotland will have access to approaching 60 specialist eating disorder in-patient beds and will fit within the spectrum of care to which I have referred. The new NHS facility, service and approach are matched by the ambition and provision shown in other areas and by other partners. For example, NHS Lothian has a well-established eating disorders community support service, which provides the right support and interventions at the right time. NHS Greater Glasgow has a new community-based service that provides comprehensive, holistic care to those who have an eating disorder. The best local approaches are

maintained and informed by multirepresentative eating disorder regional care networks.

Those services are particularly important resources for children and adolescents throughout Scotland. Adolescent psychiatry is where the majority of individuals with an eating disorder will be seen, and we are committed to increasing the number of specialist NHS adolescent mental health in-patient beds from 44 to 56 by 2010. We are also, of course, continuing to raise awareness and to reduce the stigma of eating disorders. The see me campaign to eliminate stigma and discrimination adopted an image of a lady wearing a necklace that implies that she is anorexic, with the aim of encouraging people to see the person, not the label. That theme is continued in our more recent campaigns.

There is more progress than I can mention in the time available to me but, in closing, I assure members again that we do not underestimate the need for further change. We have published clear, concise, current guidance for practitioners and patients and will welcome any advice on reinforcing that further. I have indicated to Kenneth Gibson that we will review the uptake of and knowledge of that guidance. We will continue to work with NHS boards and their partners to deliver better led, managed, organised and co-ordinated eating disorder services across the public and independent sector.

*Meeting closed at 17:35.*



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