

MEETING OF THE PARLIAMENT

Thursday 11 September 2008

Session 3

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Scottish Parliament

Thursday 11 September 2008

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

Clostridium Difficile-associated Disease

The Presiding Officer (Alex Fergusson):

Good morning. The first item of business is a Labour Party debate on motion S3M-2524, in the name of Margaret Curran, on clostridium difficile-associated disease in hospitals.

09:15

Margaret Curran (Glasgow Baillieston) (Lab):

This debate is vital, given that it focuses on one of the most serious health crises of recent years. I understand that families who lost loved ones will be in the chamber this morning, and I know that Professor Hugh Pennington, a leading and well-respected expert in the field, is with us today, too.

Let us remind ourselves of the truly appalling context of this debate. From December 2007 to June 2008, 55 patients were diagnosed with C difficile at the Vale of Leven hospital, 18 of whom either died as a direct result of C difficile or had C difficile recorded as a contributory factor on their death certificates.

The report of the independent review that was undertaken makes grim reading. It reports a catalogue of failures in infection control and surveillance; consequential failures to control admissions, discharges and patient transfers in infected wards; lack of investment in facilities for infection control and patient isolation; confused, complex and deficient management structures; and deficiencies in clinical leadership and accountability.

Given all that we know and all the resource that we commit, how can it be that Greater Glasgow and Clyde Health Board found out about the deaths only because the press alerted it to them? That is perhaps one of the most striking aspects of the situation. The stark and unpalatable fact is that, apparently, the local newspaper, the *Dumbarton and Vale of Leven Reporter*, had in place a more effective surveillance system than the national health service did.

Although the report has given us some welcome information—we pay tribute to those who contributed to it and who did their work in a very short time—it is widely acknowledged that many questions remain unanswered. Why was no effective surveillance in place at the Vale of Leven

hospital? Who was responsible? Is the situation similar elsewhere? Should we have other worries about hospitals in Greater Glasgow and Clyde or throughout Scotland? How many patients were moved into infected wards after the wards could reasonably have been closed and lives could have been saved? Can we be confident that all hospitals have an effective surveillance system in place? Ultimately—this is a matter for the Parliament—how do we learn the lessons and stop the same situation happening throughout Scotland?

Those are important questions for the relatives and the health service in Scotland, and they require to be answered, which is why there is such a substantial case for a public inquiry. Public inquiries have been commissioned in Scotland before, such as for Stockline and the circumstances of the Shirley McKie case. Many members have argued for public inquiries in different circumstances. Given the circumstances that I have described and the issues that have emerged, surely it is legitimate to put a public inquiry on the agenda.

This is the Parliament's opportunity to tell the minister that, notwithstanding your earlier decisions and your other options, a public inquiry must be on your agenda and you must return to Parliament with your response when you consider all the issues.

As Professor Pennington, an internationally respected biologist, has said, the case for a public inquiry is very strong indeed. Any other way of proceeding would be highly unlikely to address the entirety of the systems failures that were exposed by the events at the Vale of Leven hospital.

I understand that other options are available, but the core of our argument is that, given the severity of the circumstances in this case, the fact that the investigations so far are incomplete, and the wider lessons that public services in Scotland have to learn, a public inquiry should absolutely be on the agenda. We have deliberately asked the minister to come back to Parliament to ensure that she can explain her decision.

I hope that the Parliament will vote to support the motion. Doing so will mean that we recognise the scale and depth of the tragedies that took place at the Vale of Leven hospital and that we understand that we do not as yet have the explanations that we need or the means to learn the full context. That is the core of the argument for a public inquiry. The families must get the facts and explanations that they deserve. More broadly, Scotland must get the opportunity to undertake the required assessment of these appalling circumstances and to learn the wider lessons. In that context, I hope that the Parliament will support the families in their call for a public inquiry.

I hope that in this debate we will move beyond the party-political points that might be required. I will have my opportunities to hold the minister to account and I will do so with my usual energy, but this is a time for the Parliament to move beyond that.

Our commitment is to the families. We must ensure that they get the answers that they deserve and show our support for them and our recognition of what they have experienced. More broadly, this is an opportunity for the Parliament to speak with one voice and to say to the minister that, given the severity of the circumstances and the tragedy involved, we think that a public inquiry is required.

When we consider the debates that we have had over many years and the occasions on which public inquiries have been argued for, we can see that this is perhaps one of the strongest cases for having a public inquiry. We have a duty to be consistent in our arguments. We have argued for public inquiries in the past. It is legitimate to be consistent and to show true faith with the families. We must also respect those who work in the national health service and acknowledge the challenge that we face in Scotland with infections of this order.

We must do our duty. We must ensure that we support the families and that we truly learn the lessons, so that we can say with some degree of confidence and respect that we will never allow the terrible circumstances of the Vale of Leven hospital to happen again. The best way to do that is to support the motion.

I move,

That the Parliament notes with deep concern the outbreak of *Clostridium difficile* at the Vale of Leven Hospital; considers the report from the independent review team to be a helpful starting point but believes that there are still serious questions to be addressed; notes the referral of the report by the Cabinet Secretary for Health and Wellbeing to the Crown Office and Procurator Fiscal Service to consider what action should be taken; recognises and supports the substantial case made by the families of *Clostridium difficile* victims for a public inquiry; notes that the Scottish Ministers can instruct such an inquiry under the Inquiries Act 2005 and acknowledges the need for wider lessons to be learned throughout the NHS in Scotland in preventing and tackling *Clostridium difficile*, and therefore calls on the Cabinet Secretary for Health and Wellbeing to return to the Parliament to make a statement when the views of the Crown Office and Procurator Fiscal are known.

09:22

The Deputy First Minister and Cabinet Secretary for Health and Wellbeing (Nicola Sturgeon): I am pleased to respond to the motion. First, I acknowledge the contribution of the families of those who died as a result of the C diff outbreak at the Vale of Leven hospital. I have already apologised to them directly on behalf of the NHS

for the loss that they have suffered and for the failings of NHS Greater Glasgow and Clyde, which Margaret Curran has already narrated. I take this opportunity to reiterate those sentiments.

There is no issue to which I attach greater importance than the battle against infection in our hospitals. I know from personal experience the devastation that it causes for patients and families. I know that fear of infection undermines confidence in our national health service. As both a user of the NHS and Cabinet Secretary for Health and Wellbeing, my commitment to ensuring that everything possible is done to combat infection is absolute.

I do not underestimate for a moment the scale of that challenge. The point prevalence survey that we published last year revealed that one in 10 patients in our acute hospitals had an infection, which is entirely unacceptable. That said, there are, of course, some encouraging signs. Methicillin-resistant staphylococcus aureus rates are at their lowest level in Scotland since surveillance began. Evidence is emerging of the success of new approaches in fighting *C difficile*. In Lothian, for example, the use of the care bundle approach promoted by the Scottish patient safety programme reduced C diff by 50 per cent in the two hospitals in which the approach was piloted. We need to ensure that that approach quickly becomes the norm in Scotland.

Although there are encouraging signs, I am absolutely clear that there is no room whatever for complacency. As we all know, the scale of the problem is large and the nature of infection is complex—as soon as we get on top of one infection, it is likely that others will emerge. We must continue to up our game, which is why we are investing £54 million over the next three years in measures to help to reduce infection. It is why we have in place a robust hospital-acquired infection action plan and a new policy on antimicrobial prescribing. It is why we will continue to demand high and continuously improving standards of cleanliness and hand hygiene in our hospitals, and it is why tackling infection is a central plank of the new Scottish patient safety programme. It is also why we will consider carefully the form of assessing NHS boards against the new NHS quality improvement standards on HAI now and in the future.

Lastly, the importance of tackling HAI is why we and I personally will never shirk from learning lessons when standards are not as they should be. I had no hesitation in ordering an independent review of the dreadful circumstances that occurred at the Vale of Leven hospital in the first half of this year, and we have acted to ensure that all the recommendations of that report and the

accompanying Health Protection Scotland report are taken forward as quickly as possible.

That brings me to the issue of a public inquiry. Let me say first—as I said to the families involved when I met them—that I understand entirely the call for a full public inquiry. The fact that I have powers under the Inquiries Act 2005 to order such an inquiry is not, and never has been, in dispute. I am not just aware of those powers; I have already exercised them in ordering a public inquiry into the hepatitis C situation. I also want to make it clear that such a course of action has never been ruled out, and I do not rule it out today. However, the findings of the independent review team were so serious—Margaret Curran mentioned some of them—that an immediate referral to the Lord Advocate was both necessary and appropriate.

As a result of the referral, the area procurator fiscal for Argyll and Clyde is conducting a full investigation into all the facts and circumstances surrounding the outbreak at the Vale of Leven and will report the findings to Crown counsel. It would be wrong of me to pre-empt what the investigation might find, but members are aware that a range of different actions are open to the Crown Office. For that reason, it is right to allow that investigation to conclude before any further decisions are taken by ministers. If ministers took a decision at this stage—or if I said more than I have already said about what further decisions might be appropriate—we would be in danger of pre-empting and prejudging the outcome of the Lord Advocate's considerations.

It is, of course, my intention to make a further statement to Parliament at the conclusion of those investigations, to comment on them and to announce any decision on further proceedings. I have no difficulty in giving an undertaking to Parliament today that I will make such a statement at the earliest opportunity. In the meantime, the Government and I will continue to take all possible action to prevent and control the scourge of infection in our hospitals. In doing so, I hope that we will have the support of all members.

I move amendment S3M-2524.1, to leave out from “and supports” to end and insert:

“the case made by the families of *Clostridium difficile* victims for a public inquiry; acknowledges the need for wider lessons to be learned throughout the NHS in Scotland in preventing and tackling *Clostridium difficile*; notes that Scottish Ministers can instruct a public inquiry under the Inquiries Act 2005, and therefore calls on the Cabinet Secretary for Health and Wellbeing to return to the Parliament to make a ministerial statement when the views of the Crown Office and Procurator Fiscal are known.”

09:28

Jackson Carlaw (West of Scotland) (Con): I congratulate the Labour Party on according the

important subject of the deaths of 18 people and the contraction of *C difficile* by 39 others at the Vale of Leven hospital a debate in the chamber.

As a West of Scotland regional member, I shared the general anger and dismay as events unfolded earlier this year. I pay tribute to the local member Jackie Baillie, and once again on behalf of the Scottish Conservative party I express our sympathies to all the relatives concerned for their loss and the circumstances that brought about the loss—which, in most cases, will have been entirely unexpected. I join Margaret Curran in welcoming their presence in the gallery today and I welcome the moving of her motion. Let me also say that not only were the deaths unexpected, they were inexcusable, and they may well have been avoidable.

Relatives have faced something of a dilemma. There was clearly a colossal failure at the Vale of Leven, but my impression is that local people are understandably but needlessly nervous that by pursuing the investigation of the tragedy they may in some way contribute to a further general undermining of the hospital.

Let us be clear, as the independent review was: the threat of closure under which the Vale of Leven hospital laboured for more than a decade led to a significant lack of investment and, one has to suppose, a general lack of interest from the management of NHS Greater Glasgow and Clyde. However, we should not confuse a desire to investigate the deaths properly with any lack of support for the future of the Vale of Leven, a hospital for which tens of thousands have demonstrated their sustained support.

The independent review is excoriating: there was a failure of leadership and supervision and inconsistent infection control and isolation practice. The hand-washing facilities were inadequate, there were insufficient toilets and there was a lack of space between beds. Since the outbreak and the independent review, NHS Greater Glasgow and Clyde has announced urgent investment to remedy those basic failings, and to a significant extent other recent announcements have made clear that there is a permanent future for the Vale of Leven hospital.

The independent review also uncovered the frankly astonishing lack of clarity among staff or supervision of staff when it came to basic hygiene. There was a lack of understanding about the role of soap and water in the control of *C difficile*, despite health board assurances of adherence to all manner of action plans. That apparent paying of lip service to fundamental standards should concern us in our examination of the broader lessons that should be learned throughout the NHS.

Scotland does not have a proud record on hospital-acquired infection. Our incidence rates are higher than those of our United Kingdom neighbours, and the costs of £183 million are substantial and were unheard of even a decade ago. In 2006, 164 lives were lost to *C difficile*—the chilling reality that underpins any financial cost.

I have detailed the foregoing without any political spin or attribution of political blame. Like Margaret Curran, the Scottish Conservatives are not interested in rooting today's debate in the customary partisan political exchanges. We will not indulge in denunciations of political masters past or present. We want the lessons learned to have an impact on the NHS battle against health care-acquired infections throughout Scotland.

We believe in a named individual with executive authority being in charge of our hospital wards, and we appreciate that the Government's senior charge nurse review may move matters further in our direction. We mean executive control: the power to direct staff, visitors, patients, volunteers and even the hospital royalty—consultants. They should have the power not just to direct but to instruct—to be able to have facility deficiencies rectified expeditiously and without reference to an anonymous bureaucratic approval process.

In one important respect, however, we agree with the cabinet secretary: the independent review is now with the Crown Office and procurator fiscal, and until we know their determination it is premature to call for a public inquiry. Admittedly, that is at one level a judgment about the nuances in the Labour motion, but we do not feel that the relatives' real concerns are best aided by adopting a resolution that is underpinned by premature calls for a public inquiry.

The courses of action that are open to the Crown Office and procurator fiscal are significant in law and are of the utmost seriousness for the individuals and organisations concerned. We acknowledge the powerful representations of the grieving relatives and that calls for a public inquiry may have their moment—sooner rather than later. A public inquiry is, to use Margaret Curran's phrase, "on the agenda". However, for today, we believe that due process must be allowed to complete, and we look to the cabinet secretary to make the Government's position clear with a further statement to Parliament when the views of the Crown Office and procurator fiscal are known.

09:33

Ross Finnie (West of Scotland) (LD): Liberal Democrats also acknowledge the real grief experienced by the families and their tremendous efforts in trying to get to the bottom of why their relatives suffered such an untimely death.

Liberal Democrats support the call for a public inquiry simply because the two reports into *C difficile*—one specifically into the Vale of Leven hospital and the other into all acute hospitals in Scotland—provided *prima facie* evidence of endemic management failures in the control of health care-acquired infection.

As has been stated, the Vale of Leven report pointed out that the health board's persistent attempts to close the hospital in the past 10 years had resulted in a critical reduction in disease control facilities. In addition, the hospital site appeared to be given a lower priority than other sites in the implementation of disease control policies, systems and staff development. Sadly, the Vale of Leven hospital is not the only hospital that Greater Glasgow and Clyde NHS Board has been attempting to close for the past 10 years.

The report into the acute hospitals in Scotland pointed to the limitations of its own review. It concentrated, understandably, on the surveillance systems for health care-acquired infection, but it made little comment on the adequacy or otherwise of the management systems that are in place across Scotland to combat health care-acquired infection. I stress management failures, which Jackson Carlaw also mentioned, because we have to be clear that there is no evidence that ordinary staff in our hospitals are in any way responsible for the increased incidence of health care-acquired infection. Indeed, the Royal College of Nursing has pointed out that nurses in Scotland are consistently found to be the staff group that complies most with hand hygiene measures. The RCN also points out that the new senior charge nurse role, which is to be established by health boards, will be important in tackling health care-acquired infections. No doubt the establishment of that role and the measures to which the cabinet secretary referred in her speech will assist, but they will not address the question whether the management systems are adequate and robust.

The cabinet secretary has acknowledged that the Scottish ministers have powers to establish an inquiry and that she has done so in the past. However, she also stated that because the Lord Advocate has asked the area procurator fiscal to inquire into the circumstances surrounding the deaths, it would be premature to call for a public inquiry. Liberal Democrats accept that position, but only up to a point. We draw a distinction between an inquiry by the Crown Office into matters of criminality and a public inquiry to establish the facts. Patients and their families have legitimate concerns. They seek not only to ensure that justice is done and is seen to be done but the satisfaction of knowing what happened and understanding what gave rise to the events, even if no criminality was attached to the circumstances. No matter whether Crown counsel

decides to pursue a prosecution in relation to Vale of Leven hospital, there remains a compelling case for a public inquiry to establish the facts that were not established by the earlier enquiry and to restore public confidence in the systems that are in place.

The decision as to whether there is sufficient evidence to mount criminal proceedings is properly a matter for the Crown Office. Liberal Democrats do not accept, as the Government amendment clearly implies, that calling for a public inquiry implies criminal culpability. I accept that if criminal proceedings proceed, the timing of an inquiry would have to be fixed to ensure that evidence that was material to those proceedings was not compromised in any way. Because of that, I am happy to accept the last line of the motion, which indicates clearly that the timing would be in the hands of the cabinet secretary, irrespective of whether criminal proceedings are instructed.

09:38

Jackie Baillie (Dumbarton) (Lab): Fifty five people were affected and 18 people are dead. Those are the official figures that indicate when *Clostridium difficile* was recorded on death certificates. It is becoming clear that more deaths went unrecorded. Whether recorded or not, the scale is unprecedented. This is Scotland's, if not the United Kingdom's, worst mortality from C diff. The problem is not unique to the Vale of Leven hospital, nor to the hardworking staff there. The incidence of C diff is rising—there have been outbreaks in Stobhill, the Victoria infirmary, Wishaw, Aberdeen, Fife and now the Royal Alexandra hospital in Paisley—but what has been different is the response.

People have claimed that the problem is caused by underfunding or neglect, yet the cabinet secretary herself has said that the prevalence rates at the Vale of Leven are the same as in hospitals in the rest of Scotland. She has also said that what happened at the Vale of Leven was a failure in surveillance. Going by her own words, the issue is much more complex than such claims suggest. If anyone remains in doubt, contrast the Vale of Leven hospital and the Victoria infirmary, which are similar in age and condition. At the Victoria, C diff was discovered one day, the ward was closed the next day and the emergency outbreak control team met within 48 hours. At the Vale of Leven, people were dying and we waited six months before the emergency outbreak team met. That is about monitoring and surveillance.

As the constituency MSP for Dumbarton, I have been privileged to work with some of the bereaved families, and I join others in welcoming them to the chamber. I pay tribute to their courage and their

determination to find answers to what happened to their relatives. Make no mistake, they do not seek to apportion blame; rather, the aim is to ensure that we will never again see a repeat of the scale of death that occurred at the Vale of Leven hospital at that or any other hospital.

We now have the report from the independent review team. That is a welcome first step but, as others have said, questions remain unanswered. From the families' perspective, it is insufficient: they do not know what questions were asked, what documents were considered or even what people said. The report does not deal substantially with the wider relationships with Health Protection Scotland and NHS Scotland.

The families have been clear and consistent: they want a public inquiry. I welcome the fact that the cabinet secretary has referred the matter to the Crown Office. It is considering whether there should be a fatal accident inquiry, a public inquiry or any criminal prosecution. Having said that, I know that the cabinet secretary has the power to initiate a public inquiry under the Inquiries Act 2005, to which she referred. It states that a minister can call a public inquiry if

"it appears ... that—

(a) particular events have caused, or are capable of causing, public concern, or

(b) there is public concern that particular events may have occurred."

Of course, the matter is not reserved within the meaning of the Scotland Act 1998. There is clear public concern. There have been 18 deaths at the Vale of Leven and many more throughout Scotland. Lessons need to be learned fast.

Why should there be a public inquiry rather than a fatal accident inquiry? A fatal accident inquiry would take place before a sheriff, the focus would be too narrow and it could consider only what happened at a given hospital over a given period. The recommendations would not be binding, the inquiry would be adversarial rather than inquisitorial and, perhaps most significant, a fatal accident inquiry would exclude and disenfranchise the victims who survived. In contrast, a public inquiry would be wider in scope, the recommendations would go straight to ministers and the inquiry could propose legislation. A public inquiry could deal with all who were affected, and the fact that such inquiries are chaired by a judge would send a strong signal of the seriousness of the matter.

In a former existence, the cabinet secretary called for many public inquiries—I have not always agreed with her—and in government she and her colleagues have initiated a number of them. I hope that she will agree that it is right that the victims of C difficile should benefit from a public inquiry, too.

However, this is not only about the victims; it is about ensuring confidence in the national health service. The problem of C diff requires to be investigated as widely as possible. We need to put in place the right system, the right guidance and the right resources to ensure that we minimise the possibility of such events ever happening again. That objective surely is shared by the whole Parliament.

We need an independent inspection and monitoring regime for HAs in Scotland. If I went on the internet, I could run off an environmental health inspection report about my local restaurant and takeaway, a report about the performance of my local school and a report about my local care home. I could even run off a report about the Vale of Leven hospital tea bar, but I could not do so for a report about the hospital itself.

Issues such as whether there is a need for an independent inspection regime are too wide for a fatal accident inquiry—that is the terrain of a public inquiry.

This debate is about Parliament's view, not about the minister taking a view. It is about how we move forward to provide answers for the bereaved families, how we support NHS staff and how we provide confidence in our NHS. A public inquiry gives us the basis for doing that.

09:44

Christine Grahame (South of Scotland) (SNP): I acknowledge, as other members have done, the distressing circumstances that have brought us to this debate, which will never be a party-political one.

I thank Jackie Baillie for her speech and acknowledge her powerful representation of her constituents in this tragic matter. The statistics are damning in themselves, but we all acknowledge that each of those statistics represents an individual person and leaves an enduring trail of tragedy for family members and friends.

This must also be a difficult period for staff at the hospital. There will be very good staff in the Vale of Leven hospital—some of them will be very good indeed—and they must feel stigmatised by the cloud that has hung over the hospital.

I will not go back over the review report, to which other members have referred. I will move on from the specific tragedy at the Vale of Leven hospital to consider the general issue of hygiene and cleanliness, with which, as many of us knew anecdotally, there are serious problems in hospitals throughout Scotland. Hygiene and cleanliness used to be taken for granted in my younger days, never mind my mother's day. The present problems can be attributed partially to the

break-up of the esprit de corps that used to exist in our hospitals, whereby the cleaner and the janitor were part of the same team as the much-lauded consultant. Quite often, it was the cleaner or the janitor who had the time to speak to patients and to ensure that they were comfortable. Now we use agency nurses. I am not blaming them, but their connection to hospitals is transitory. They are rewarded through their salaries, but they do not feel part of the hospital family. That feeling, which money cannot buy, has been lost.

We should also consider the more relaxed approach to visiting hospitals that has been adopted, and which I have been guilty of. Sometimes six or seven people surround a bed that is close to another bed, and visiting hours in many hospitals are no longer restricted. It goes without saying that that must cause simple hygiene problems. The issue is largely practical. As someone important once said, there is nothing to beat soap and water for your hands. Simple measures must be taken, such as cleaning the walls and floors of hospitals and ensuring that the bed linen is clean and that wards are not crowded.

I want to challenge what Jackie Baillie said about the holding of a fatal accident inquiry. She said that such inquiries are adversarial, but they are not—they are inquiries. I have called for two fatal accident inquiries in my part of the country—one on the death of Pascal Norris from anthrax and the other on the death of Irene Hogg following an inspection by Her Majesty's Inspectorate of Education. It was not mandatory to hold a fatal accident inquiry in those cases, in which due process was followed. Both cases went first to the procurator fiscal to consider whether there should be criminal proceedings, because such proceedings, in which the standard of proof is "beyond reasonable doubt", take precedence. The process then moved on to consider the question whether it was appropriate to hold an FAI.

What is important about FAIs is that they are extremely flexible. At any point in an FAI—which is an inquiry—the sheriff or the senator in charge can decide that criminal proceedings are appropriate and that the inquiry must be stopped. It might even be decided that a public inquiry should be held. Rather than a decision, an FAI produces recommendations and determinations. That is why the standard of proof is different.

Dr Richard Simpson (Mid Scotland and Fife) (Lab): I accept what the member says about fatal accident inquiries, but the broader issues are the problem. Clostridium difficile-associated disease is an issue not just for the Vale of Leven but for the whole of Scotland and the whole of the NHS.

Christine Grahame: With respect, I think that I mentioned that when I discussed the general problem of hygiene in our hospitals. The broader

issues might emerge in a fatal accident inquiry. Such an inquiry might not even be held, if the procurator fiscal decides that there is sufficient evidence to pursue a criminal prosecution.

I understand the call for a public inquiry—that would be the first thing that I would call for, were I a member of an affected family. However, we must keep a cool head and think about how to get to the root of the problem. The best way of examining forensically what took place would be to find out first what the procurator fiscal has to say about criminal culpability. If there is no criminal culpability, the holding of a fatal accident inquiry will allow the sheriff or judge in charge to make determinations about the way forward. An FAI will not prevent us from considering all the issues; it will give us an opportunity to examine all the evidence coolly and to take a range of views on how to deal with the problem. It is in the interests of all patients in Scotland, especially our older patients, that we get to the bottom of what has been happening for a long time in Scotland's hospitals.

09:49

Hugh Henry (Paisley South) (Lab): Other speakers have made it clear that *Clostridium difficile*-associated disease is not just a problem in one hospital. On 5 September, the *Paisley Daily Express* reported that the fact that there had

“been eight cases of the deadly *Clostridium Difficile* infection in one ward at the Paisley hospital over a four-week period ... was a contributory factor in the death of one patient”,

so it is clear that people in my constituency are worried about what is happening in our hospitals.

I welcome the content and tone of the cabinet secretary's speech. I thought that she made some helpful comments and recognised the scale of the problem. This is a debate on which we should try to reach some common ground on behalf of the wider public. People will not forgive us if we are seen to squabble for party-political reasons over an issue on which there is general agreement. I worry that the cabinet secretary might inadvertently—I am not suggesting that she is doing so deliberately—be teasing people with the possibility of a public inquiry. She said that she did not rule out such an inquiry, but that issue is separated out in the amendment, which is otherwise similar to Labour's motion.

I hope that during the day, the cabinet secretary might reflect on where we are. We do not want to give out a signal to the general public that politicians are squabbling and cannot agree on taking serious action on a significant issue. I hope that we will send out a clear message that we are intent on improving the situation in our hospitals.

Several speakers have highlighted the problem. Christine Grahame was right to mention some of the cultural and practical issues in our hospitals. Staff are not deliberately casual, but the fact that they can move from one institution to another and not have any long-term commitment to a hospital can cause problems.

Like the cabinet secretary, I have experience of elderly relatives suffering hospital-acquired infections. The state of cleanliness of some wards leaves a lot to be desired. There seems to be some confusion about who is responsible for cleaning certain things at certain times. Sometimes unclean and unsafe conditions are left for far too long.

Jackie Baillie made a good point about inspection. Why is it that we can find out about the tea bar at the Vale of Leven hospital, but we cannot find out before we go into a hospital whether it has a bad record, relative to other hospitals, on cleanliness and hospital-acquired infection? We should put such information into the public domain.

Ms Wendy Alexander (Paisley North) (Lab):

Like the member, I have many constituents who use the RAH. They would like Government front benchers to tell them why the Government is suggesting that we proceed with a health board by health board web reporting system rather than a hospital by hospital reporting system. After all, it is in hospitals, not health board headquarters, that people acquire infections. The prerequisite for an inspection regime is the ability to obtain data hospital by hospital. The decision to move to a web-based reporting system was made during the recess—

The Deputy Presiding Officer (Alasdair Morgan): Interventions should be brief.

Ms Alexander: It would be helpful to be given a justification for the decision that information is to be provided health board by health board, rather than hospital by hospital.

The Deputy Presiding Officer: The member must begin to sum up, I am afraid.

Hugh Henry: I do not disagree with Wendy Alexander. Before they go into a particular hospital, patients should have the right to access the data for that hospital. I see no reason why we cannot have unannounced inspections of the cleaning and safety standards in hospitals. It is a concern that more progress seems to be being made on the issue in England than is being made here. We should be big enough to learn from what is happening elsewhere.

I acknowledge that time is short and that other members want to speak. Suffice it to say that we must find a way of coming together to take action

on what is a significant issue for the public. There is an opportunity for us to have further debate on inspection regimes and other specific issues on which practical suggestions have been made. The last thing that we should do on such a major issue that has had tragic consequences is divide along party-political lines over of what will be seen as splitting hairs and playing with words.

09:55

Christopher Harvie (Mid Scotland and Fife) (SNP): We meet in the light of the personal tragedies at the Vale of Leven, but many of us have our own experience of the problem and its environment. I spend a lot of time as carer to two 90-year-olds. My father has prostate problems, which mean regular hospital visits. Forty years ago, as a postgraduate student, I was the first archivist of Edinburgh royal infirmary, and found out that before the age of Lord Lister and antisepsis, patients often did not expect to leave hospital. Hospital-acquired infections are nothing new.

Are we reverting to the pre-Listerian time? Comparisons with Germany suggest that we have 10 times the occurrence of hospital-acquired infections, but why? Besides resistance to antibiotics, we have perhaps greater environmental problems, such as old buildings. We use inappropriate floor coverings, for example carpets instead of tiles or linoleum—I declare an interest as an MSP for the Kirkcaldy area—which is seen to have an antibiotic effect. I have never seen a carpet in a German hospital. Hospital notes, making their progress round the wards, can appear rather toxic, since they are grubby and, in the case of elderly patients, often date from a long time back.

There are social factors. Besides our alcohol problem, we have three times the German rate of drug addiction. Accident and emergency at Borders general hospital can be a scary place for the staff, let alone the patients. Can people from a chaotic background be expected to observe clinical rules? Inevitably, the problems will increase in areas that have profound social difficulties. There has been a lack of investment in the Vale of Leven, but even favourable developments, such as the replacement of a hospital or of facilities in a hospital, can have unfavourable effects. How many of us have been in a hospital that seems like a building site, where everything is in a temporary state, making one wonder whether everything is being kept up to the necessary standard?

Three and a half years ago, I was constantly in the Middlesex hospital in London. The condition of the hospital was poor because a new building—the new University College London hospital—was

only weeks from opening. However, the new building could not affect the patient at whose bedside I waited, as she was in the last stages of cancer. She was tended by the Middlesex staff clinically—in the true Latin sense of the word—and with love. However, it was a hospital in its last weeks, and the sources of possible infection—ill-cleaned corridors and public toilets, and the absence of hand wipes and of facilities for adequate hand washing—were all too obvious. Hospital improvement is good, but it always leaves a vulnerable interval.

It is important that we establish the primacy of hygiene. That means keeping all infrastructural support in-house. In NHS Wales, which has a good record in combating HAI, all cleaning is done in-house, and the guiding principle is hygiene. Before that, many contractors had left it to cleaners to wash their uniforms at home and wear them when travelling to work, increasing the risk of infection transmission. How much of that still goes on?

The issue also involves the wider public. Earlier this year, I got stick from the *Daily Record* and *The Sun* for objecting to teenagers planting their shoes on bus seats. All the buses on which I travel pass the Borders general hospital, and medical staff use those seats. There is a major contamination possibility there—just consider where those shoes have been. That represents the sort of casually indifferent behaviour I have almost never seen among young people in Tübingen, which is a major hospital centre in Germany. I think that there is a reason for that, which might also be a way forward. Most German teenagers spend a year doing social service, often as a hospital orderly, a worker with the elderly or a paramedic. Such social service is far more demanding than any form of military service and, as anyone who has worked with youngsters here who have done first-aid training will know, that experience, particularly over a year, does not just change lives, but saves them.

09:59

Helen Eadie (Dunfermline East) (Lab): I support the motion in the name of Margaret Curran and pay tribute to my colleague and friend Jackie Baillie for her usual tenacity in pursuing an issue with diligence and fortitude. I extend my sympathy and condolences to the relatives who have come here from the Vale of Leven to listen to the debate.

No matter what any member says today, I imagine that those relatives will be inconsolable in their grief over the loss—which may have been avoidable—of their loved ones. I do not blame the Government for the existence of such infections—no one would dream of doing so. However, what is

important is how we as politicians react to the situation. Lives have been lost, and the question is how avoidable each death from the dreadful infection C difficile was. A public inquiry can tell us, and holding one would send out a political message. The kind of inquiry that you are talking about, cabinet secretary, does not give the issue the gravity and urgency that it requires, nor does it address the crisis of public confidence that exists throughout Scotland. How avoidable were those deaths?

On Sunday, at a constituency engagement in Cardenden, I was told of a patient whose death in the Queen Margaret hospital in Dunfermline may well be another that was caused by contracting C difficile in the hospital. My constituent's mother was admitted to the Queen Margaret in January, and was moved to bay 7B, in ward 7, which had been closed for a week due to a bug. The patients in the bay provided my constituent with all the information; the medical team said nothing. A few weeks later, the family arrived to visit and found their mum in a side ward on her own. No one in the hospital provided the family with any information. At their next visit, the family were greeted by a nurse refusing them entry. An apron and gloves were presented, and family members were advised that C difficile was suspected and that a test had been arranged.

My constituent's mother had visitors non-stop that day—the whole family had unrestricted access. Despite what other members have said, there were no restrictions on being close to the patient or sitting on the bed. My constituent said that the ward was never closed during that period, and that the level of cleanliness left much to be desired. My constituent's mum was then moved to ward 1 in Lynebank hospital.

What I find most shocking in that case is the absence of information for or instruction to visitors. Why was the family not given clear direction and instruction about hand washing, contact with the patient and so on?

The cabinet secretary will be aware that ward 6—a general medical ward—at the Queen Margaret hospital in Dunfermline was closed to new admissions just three weeks ago, after seven patients developed diarrhoea and later tested positive for C diff. Samples were taken to discover whether the patients were infected with the virulent 027 strain of C diff. The results will be known this week.

I reiterate my call for a full public inquiry into the matter. Such an inquiry is important for every patient in Scotland. There is a crisis of public confidence around infection control and, for the reasons so eloquently put by Ross Finnie, there is a compelling case for a public inquiry. What is happening in the Queen Margaret hospital in

Dunfermline underlines the need for a full public inquiry into C difficile, so that lessons can be learned from the recent tragedy at the Vale of Leven, where 18 people died. Families have an absolute right to know that when their loved ones go into hospital they will be cared for in clean and safe conditions. Sadly, cabinet secretary, you are not taking on board the message about the difference between a public inquiry and a fatal accident inquiry. The latter is not the way forward.

In February, and again last month, the *Dunfermline Press* highlighted the issue on its front page. It reported that the number of deaths in Fife hospitals where C diff was mentioned on the death certificate had rocketed from 23 up to 41. A national survey carried out by Health Protection Scotland said that just under 10 per cent of patients at the Queen Margaret hospital had a hospital-acquired infection such as C diff or MRSA.

Cabinet secretary, can you put your hand on your heart and state that you have kept faith with your promise

“to raise the issue with every Board during this summer's Annual Reviews”?

Did you do that with every health board at its annual review this summer?

The Deputy Presiding Officer: The member should be winding up.

Helen Eadie: Finally, cabinet secretary, the constituents whom I represent in Cardenden form part of the Glenrothes constituency. Unless you give us an absolute and categorical assurance that you will go ahead with a public inquiry, I will print every word that you have said on the leaflets that I will put out in the Cardenden and Kinglassie part of my constituency, to say—[*Interruption.*]

The Deputy Presiding Officer: Order.

Helen Eadie:—to say that you are not taking the case—

The Deputy Presiding Officer: The member should wind up.

Helen Eadie:—for a public inquiry seriously.

The Deputy Presiding Officer: Order. I remind members that all their remarks should be made through the chair. If the word “you” is used, it refers to me. Several members have been ignoring that stricture during the debate.

10:05

Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): I am fortunate in my constituency in that Caithness general hospital in Wick enjoys an enviable reputation for cleanliness. I have done a short course on hand cleaning, and

it is a much more scientific and thorough process than I had realised.

I know something about hospital-acquired infections. Following neurosurgery, my wife went down with MRSA. She survived—we are the lucky ones. We were incredibly lucky. However, I can remember the sickening feeling when someone—after going through major and traumatic treatment in hospital—then goes down with a hospital-acquired infection. I have been there; I have got the T-shirt, and my family has got the T-shirt. I remember the visits and having to wear the gloves, the masks and the whole paraphernalia—just to see my own loved one in hospital. For that reason, I have a real understanding—as do all of us in the chamber—of what the relatives of the 18 people who died so tragically have gone through. I understand exactly where they are coming from.

Jackson Carlaw said that such things are inexcusable and avoidable. It is the avoidable aspect that so sickens us all. He gave the best description of the independent review when he said that it was “excoriating”. Indeed it was.

I applaud Jackie Baillie’s speech in every way. The point that she made about such a situation never happening again is the real issue. As she said, we are not dishing out blame—this is not a culture of blame—but we have to ensure that safeguards are put in place so that such events are never repeated. We must do that as far as humanly possible, given human intelligence.

Some of Christine Grahame’s points were very fair. We must not forget the staff at the Vale of Leven hospital, who will be feeling very down. I would hate to be in their position; they have worked extremely hard and yet their reputation has been damaged. Christine Grahame’s point about hospital visitors was absolutely correct—we have all seen examples of such behaviour. Until recently, it was possible to have six people round a bed in a ward and there would be no washing of hands.

Hugh Henry’s contribution—complete with Wendy Alexander’s intervention, long though it was—was right. We are not interested in health board data; we are much more interested in knowing specific hospital data. As Jackie Baillie said, at the moment we can get information about the tea in the canteen but not about the rates of HAs in the hospital.

In closing for the Liberal Democrats, I echo what my colleague Ross Finnie said: there is a clear distinction between the work that the Lord Advocate and the Crown Office are undertaking and a public inquiry. The Lord Advocate and the Crown Office are looking into aspects of criminality in what has happened. They may rule one way or they may rule the other way—we know not.

However, the issue goes way beyond the Vale of Leven hospital and the Greater Glasgow and Clyde NHS Board. The whole of Scotland and the United Kingdom sat up when people heard of those 18 deaths. The issue is at the back of everyone’s mind when they go anywhere near a hospital. Public fear is real. Constituents of mine have died of MRSA, and every death is one too many.

My party believes that a public inquiry is very much in the public interest. As others have said, a public inquiry could do more than the Lord Advocate or any other person could do, and more than a fatal accident inquiry could do. A public inquiry would be wide and—crucially—it would restore public confidence among ordinary people who might be facing hospital treatment.

Of course we will respect the cabinet secretary’s views on timing, but Ross Finnie made a point that I hope will be acceptable to the cabinet secretary. He said that one evidence-taking session must not compromise another; they can be dovetailed in order to achieve the best possible outcome for the concerned people whom we represent.

10:10

Mary Scanlon (Highlands and Islands) (Con):

We join others in sending our condolences to all the families who were affected by the outbreak of C difficile and the 18 deaths at the Vale of Leven hospital. The Scottish Conservatives agree with much of Margaret Curran’s motion, and we confirm that a public inquiry is not off our agenda.

Undoubtedly, serious questions remain to be addressed. However, where we differ from the Labour Party and its motion is that we support and respect due process, allowing the procurator fiscal fully to investigate the C difficile outbreak and consider what action should be taken. However, we do not rule out supporting a public inquiry at the appropriate time, following the investigations and conclusions. It may be that a fatal accident inquiry will be recommended by the procurator fiscal; it may be that civil proceedings will be taken against Greater Glasgow and Clyde NHS Board; it may be that actions will be pursued against individuals as they are held accountable for the outbreak; and it may be that persistent failures and negligence will be identified. However, we do not wish to pre-empt the findings of the procurator fiscal, and we respect the due process of the investigation.

I also hope that the findings will consider the lives that could have been saved had action been taken at the Vale of Leven hospital at the appropriate time. Given the high level of expenditure on the NHS in Scotland, it is shocking to read the litany of failures at the Vale of Leven

hospital, which many members have highlighted. The failures include: underinvestment; ineffective isolation and infection control; lack of leadership; poor facilities; poor information on hand washing and laundry; and failure to monitor antibiotic levels. It is hardly surprising that staff morale was low. All of that should be placed against the statement from Health Protection Scotland that evidence from several countries concludes that hospital-acquired infections are avoidable. Jackson Carlaw and others have made that point.

I will make a couple of points that have not yet been made today. I hope that the cabinet secretary will take up the issue of an inquiry and will consider the problem in a wider context, because it exists not only in hospitals. Infections also exist in nursing homes and care homes for the elderly, and many of those patients are then transferred to hospital. I am not saying that that happened at the Vale of Leven hospital, because I am not familiar with where the patients came from, but when people are transferred they can bring infections with them. We cannot simply concentrate on infection control in hospitals; we have to be just as rigorous in nursing and care homes.

I hope that, when she responds to the debate, the cabinet secretary will advise us what the Scottish Commission for the Regulation of Care is doing in terms of inspections and infection control. What is its role? Is it as rigorous as we hope to be in the NHS? There is no point in considering hospitals unless we consider the whole sector. Neither is the prescribing of antibiotics wholly in the domain of the hospitals. We cannot blame just the hospitals for prescribing antibiotics. Before patients go into hospital, much more needs to be done to reduce the prescribing of antibiotics. That is true for all patients, but especially the elderly.

I welcome the increased use of day surgery, and I also welcome last week's report from Audit Scotland report, which concluded that more procedures could be done by day surgery. Not only would that save money and provide a less disruptive experience for the patient, but it would cut down on hospital-acquired infections, because the stay in hospital would be shorter. We are pleased that the report recommends the empowering role of the charge nurse—something that Conservatives have long called for.

We support the Government's amendment today, and we may well support Labour's call for a public inquiry at an appropriate point in the future, following the current investigations.

10:14

Nicola Sturgeon: In the time that I have available, I will try to respond to some points that

were made in the debate. I thank all members who contributed; on almost every occasion, their contribution was considered and helpful.

I thank Margaret Curran for initiating the debate. She narrated some of the report's key findings. As I said on the day of its publication, the report painted a picture of conditions at the Vale of Leven that were entirely unacceptable. That view is echoed by absolutely every member in the chamber.

Jackson Carlaw made a considered speech, in which he raised the important—probably the central—issue of the downgrading of the Vale of Leven over a period of 10 years with the resulting lack of morale among staff and all those who were associated with the hospital. He rightly stated the importance of ensuring the future of the hospital and of ensuring that it gets the investment that it needs. I am pleased that NHS Greater Glasgow and Clyde has given a commitment to the sustainable future of the hospital. I am sure that that is a commitment on which we all will want to hold the NHS board to deliver.

Ross Finnie and I may not be on the same side when it comes to the vote at decision time, but his speech was very good. He drew a distinction between criminal liability and the wider circumstances of a case. I say to him in response that the purpose of the Lord Advocate's investigations is not only to establish criminal liability; criminal prosecution is one possible outcome of her investigations, but not the only one. As other members have said, in theory it is open to the Lord Advocate to order a criminal prosecution, a fatal accident inquiry, or a public inquiry. That range of options is open to her.

I acknowledge Jackie Baillie's role as the local member. As she rightly said, although we are focusing today on the Vale of Leven, the issue is not only for that hospital—infection is a challenge in all our hospitals. The issue is also not new; infection has been a challenge for all our hospitals for many years. Indeed, the challenge is not unique to Scotland; every country is battling it.

I agree with Hugh Henry that the issue should not be made party political. I assure him that he will hear no party-political squabbling from me on the issue—it is far too important for that. Hugh Henry made legitimate points on the nature of assessment and inspection in our hospitals, as did Wendy Alexander when she intervened on him. As I said in my opening remarks, the issue is under my active consideration.

What I am about to say, therefore, is not intended to be party political; it is intended as a statement of fact. The present system of assessment for our hospitals and health boards was put in place by the previous Government, and

inherited by this Government. If we are to change the system, instead of making the issue one of politics, I hope that we can come together and agree on changes, based on experience.

I agree with what both Christine Grahame and Christopher Harvie said on cleanliness and hygiene standards. Christopher Harvie made an excellent point on the outsourcing of cleaning contracts. My views on the subject are well known.

Mary Scanlon's point—that the issue applies not only to hospitals—is central to the debate. If one looks carefully at the latest statistics on *C difficile*, for example, one finds that a quarter of all cases are contracted not in hospital but in the community. The issue must be viewed more widely, as Mary Scanlon said. It is essential that we widen our focus to include homes that the care commission inspects, including nursing homes.

Three questions are at the heart of today's debate. First, should further action be taken? As I said in my opening speech, I understand the calls for further action. If I was convinced that there was no case for further action, I would not have referred the report to the Lord Advocate. I repeat what I said earlier: I have not ruled out anything, including a public inquiry.

The second question is: what process do we pursue in coming to a decision? Having referred the report to the Lord Advocate, it is right that we allow her to consider the various possible courses of action. If a further inquiry were to be made in the future, her investigations would be invaluable in helping us to divine its scope and shape.

The third and final question is: what do we do in the meantime? Notwithstanding action that may or may not be taken, it is essential that none of us gives the impression that we should sit back and await the outcome of some future inquiry before making the improvements that we need to make to ensure that we are constantly upping our game in the battle against infection.

I know that we will return to the issue. I have given an undertaking to return to Parliament at a later stage. In the meantime, I will continue to do everything possible to ensure that we fight infection as effectively as possible. I will do that because, whatever else members think we owe to the families of those who are affected at the Vale of Leven, I am in absolutely no doubt that we owe them that.

10:20

Dr Richard Simpson (Mid Scotland and Fife) (Lab): *C difficile* is somewhat different from MRSA. That recognition should be the starting point for the debate. The prevalence of *C difficile* in the population at large means that, when

someone goes into hospital, it is important that every measure is taken to ensure that the infection is not spread or does not become more serious.

Given that we know many of the factors, I will mention just three: overcrowding, poor hand hygiene, and failures in antibiotic policy. Under the previous Administration and continued under this Administration, attempts have been made to tackle some of those issues. For example, overcrowding was exacerbated by delayed discharge, an issue that has been largely eliminated. The Government achieved that in March 2008. I accept that the antibiotic policy that was put in place in 2002 has been updated, but its implementation still needs to be questioned. For example, NHS Lothian has implemented it much more strictly, with good results. That has also been done at the Maidstone hospital in Kent following the outbreak there, and the results have been demonstrated to be effective. The matter has to be taken seriously.

Hand washing is a matter of considerable concern. The cabinet secretary has indicated a target of 90 per cent, which sounds good—indeed, it sounds excellent to have such a target. As Ross Finnie said, we know that nurses are better at hand washing than doctors are. Other measures can also be put in place. One of the problems is that the alcohol gels that are widely used in the system are not the answer, because they do not deal with *C difficile*. Also, the current inspection regime does not distinguish between hand washing and hand hygiene. There are therefore two flaws in setting the target, which is intended to help to restore public confidence. In the self-reporting that occurs under the inspection regime, staff are not required to wash their hands at all times. The reporting is therefore meaningless, which is regrettable. The issue could be addressed in a public inquiry—

Nicola Sturgeon rose—

Dr Simpson: I will finish the point, cabinet secretary, and then let you in.

If one looks at the latest figures under the hand hygiene inspection regime, the denominator—the number of observations—reported by NHS Greater Glasgow and Clyde was 300. However, the number reported by NHS Forth Valley, which is a much smaller board with only two hospitals, was 480. Those figures show that no pattern is emerging from the inspection regime. There is an absolute need for an independent inspection regime. That issue should be looked at.

Nicola Sturgeon: I wanted to agree with the point that Richard Simpson was making when I rose to intervene. Notwithstanding my previous comments on a public inquiry, I assure him and the chamber that I do not want to wait to be told in a public inquiry report that I must ensure that any

flaws or failings in the current system of hand hygiene are rectified. We should be getting on and doing that now.

Dr Simpson: I absolutely accept that. The problem is how we can see the whole picture.

Many things cannot be understood by reading the report conclusions. For example, why did 55 cases produce 18 deaths at Vale of Leven? The expected mortality level for *C difficile*—and there is such a level—is around 2 to 3 per cent, although in associated cases it may go up to 6 per cent. At the Vale of Leven, the level was almost 30 per cent. The report says that people did not know why that occurred. With due respect to the cabinet secretary, if neither her specialist committee nor her civil servants know the reason, a public inquiry is needed in order that we can understand all the factors and know where we should be going. The Lord Advocate's inquiries will not achieve that.

As other members said, the reports that we have received are helpful. However, they give us neither the full picture nor the full answer. Too many questions have not yet been answered. As I mentioned, the number of deaths at Vale of Leven is not explained. Also, the HPS review was undertaken over only a six-month period. We do not know whether deep cleaning, which both Gordon Brown and the cabinet secretary have ordered, does any good. We need to understand that.

Too many issues remain unanswered. The families are entitled to understand, as far as possible, that all the composite measures that were undertaken by this Administration and the previous Administration, based on the knowledge that we had at the time, were sufficient and will be sufficient going forward if we are to restore public confidence.

All testing and surveillance is not yet standardised, and reporting is not done hospital by hospital. Hugh Henry and Wendy Alexander referred to that. In England, reporting is done by hospital so that if things move in the wrong direction, that can be identified right away. The HPS report now refers to that for the first time, and shows that deaths in the Vale of Leven hospital were above predicted levels in January and March. If a reporting system that indicated that had been in place in March, we would not have had to wait until the *Dumbarton and Vale of Leven Reporter* invited us to examine the issue.

Some reporting systems are in place, but they are not effective and they are not being used properly. Do we want a hospital-based reporting system? Will that restore confidence? We need to consider that as part of a public inquiry.

HPS issued the *C difficile* associated disease care bundle only on April 1, but its status was only advisory. The website said only that HPS

"would like to hear from"

people who were using the care bundle. That does not indicate attention to what actually needs to happen. There should have been directives that were independent of inspection and which had teeth.

The cabinet secretary has said repeatedly that the issue is being taken seriously—I do not deny that—but the families and the public do not believe that the Parliament is taking the issue seriously enough. We need a public inquiry to show us the way ahead and to help us to understand what has happened.

Teachers

The Deputy Presiding Officer (Alasdair Morgan): The next item of business is a debate on motion S3M-2525, in the name of Rhona Brankin, on the Scottish National Party Government failure on jobs for newly qualified teachers.

10:27

Rhona Brankin (Midlothian) (Lab): Labour has raised this important issue because it is of concern for the teaching profession, parents, pupils, employers and everyone else in Scotland who cares about our education system. When figures for the employment of newly qualified teachers were released last year, a spokeswoman for the Scottish Executive told the *Sunday Herald* that the Scottish National Party Administration had

“inherited a difficult situation with more shortfalls in jobs than planned as some councils have failed to employ as many full-time teachers as expected.”

A year down the line, the situation has got demonstrably worse. The annual *Times Educational Supplement Scotland* survey of local authorities shows that the proportion of newly qualified teachers securing permanent teaching jobs in 2007 was about 50 per cent higher than for the same period this year. If the situation last year was “difficult”, to use the SNP Administration’s own word, what word would the Cabinet Secretary for Education and Lifelong Learning use to describe the markedly worse situation that has been engineered by her failed policies during the past year?

Whether we look at the *TESS* figures or those from the General Teaching Council for Scotland, the facts are clear. Increasingly, newly qualified teachers are struggling to secure permanent teaching posts.

The Cabinet Secretary for Education and Lifelong Learning (Fiona Hyslop): The GTC survey shows that more post-probationers were in permanent jobs—whether full time or part time—under this Government in April 2008 than under her Government in April 2006. Does the member acknowledge that fact?

Rhona Brankin: I wish that the cabinet secretary would stop trying to hide behind statistics. It is clear that an increasing number of primary school teachers are in temporary posts; that is a main feature of the research that we have seen. The cabinet secretary must be open to recognising the difficulties that exist, especially in the primary sector.

Last week, the Deputy First Minister told the chamber that the concerns of parents and

teachers were “downright stupid”. Does the cabinet secretary share that view?

On this side of the chamber, we have come to expect the increasingly tired SNP accusations of scaremongering; I doubt that this morning will be any different. However, I urge SNP ministers to look beyond their minority position and take heed of the chorus of criticism from teaching professionals. For example, the Educational Institute of Scotland’s Ronnie Smith has called on the Scottish Executive to tackle the issue. He said:

“This is not something it can regard as being at arm’s length and say it is not our problem.”

May Ferries of the GTC said:

“Because of local authorities’ budget difficulties, there is a squeeze on any potential growth of teacher employment, and that will hit the post-probationers.”

School Leaders Scotland said:

“This is a disgraceful situation where we are jeopardising the excellent probationer programme by not being able to provide job opportunities at the end of the probation.”

In the past few days, I have had phone calls and e-mails from teachers voicing concerns over low morale and staff cuts around the country, and thanking me for raising the issue in Parliament last week. Either SNP ministers take those comments seriously and acknowledge that there is a problem, or, in effect, they dismiss as Labour stooges the people who made the comments. The Deputy First Minister believes that such concerns are “downright stupid”, but a glance at comments from teachers on the *TESS* website shows a remarkably different picture to that on planet Sturgeon. One person said that they were a probationer last year and they applied for jobs across Scotland and travelled all over for interviews, but that with the current job situation, they felt forced to take a teaching position in England. Another said that if all else fails, Dubai is looking for teachers. Yet another said that the SNP

“must be kidding, a rosy situation it is not, they must be aware of it!”

The problem is that while the cabinet secretary might be aware of the crisis, neither she nor her ministerial colleagues show any inclination to resolve it. In fact, the impact of John Swinney’s much-hyped concordat with local authorities, which has cut councils’ share of Scottish Government spending by approximately 2 per cent, is being felt across Scotland. For example, in SNP-run Aberdeen, cuts have resulted in primary and secondary schools being staffed at 97 and 95 per cent of previous levels respectively and, in common with many other parts of the country, cuts have been made in the number of teaching posts. There has also been a steep increase in the number of teachers who are on short-term

contracts. That picture will become even clearer in the coming weeks.

Such is the education funding crisis in many schools that hard-pressed headteachers are staffing their schools in the short term with more probationer teachers to help to balance the books. That is the reality of the SNP's historic concordat with local government, and it risks destroying our hugely successful teacher induction scheme. Perhaps when the minister sums up, she will explain how the SNP plans to meet its promises on class sizes and teacher numbers when it is reducing employment opportunities for newly qualified teachers.

"We should be told why more teachers are not being employed in the classroom, why probationer teachers are struggling to find appropriate places for next year, and why post-probation teachers are finding it well-nigh impossible to find a permanent post."

Those words are not mine; they are the words of Fiona Hyslop on the situation in 2006, which was far brighter than the disaster area over which she presides today. I am disappointed, but not surprised, that the Cabinet Secretary for Education and Lifelong Learning is sitting there smiling at this debate. Perhaps she has decided that the Scottish Executive stands a better chance of winning the argument or finally winning a vote on education—that would be a first.

At decision time, the cabinet secretary might well buy herself a few much-needed weeks to come to terms with the problem, which is of her Government's making, and in which to produce a coherent strategy to replace the current dismissiveness and complacency. It is no use trying to blame cash-strapped councils or the previous Administration for this mess. The cabinet secretary must demonstrate some long-overdue leadership to address the crisis. If she is unable or unwilling to do so, she should step aside for someone who can. I urge members to stand up for Scotland's pupils, parents, teachers and the Scottish education system by supporting the motion in my name.

I move,

That the Parliament notes with concern the recent Times Educational Supplement Scotland and General Teaching Council for Scotland surveys showing an increasing number of post-probationary teachers who are unable to secure a permanent teaching post; believes that this development represents an appalling waste of talent and is grossly unfair to those newly-qualified teachers encouraged to train to join the profession; further notes that this comes at a time when many class sizes are rising, and calls on the Cabinet Secretary for Education and Lifelong Learning to show leadership and ensure that the Scottish Government, in conjunction with local authorities, takes early and decisive action to address this growing crisis and to make a ministerial statement before the October recess with recommendations for immediate action.

10:35

The Cabinet Secretary for Education and Lifelong Learning (Fiona Hyslop): The debate needs to benefit from some cold hard facts rather than hot-headed attacks on Scotland's education system as the Labour Party seeks to undermine it.

Fact—the *TESS* survey was out of date on the day that it was printed, on 29 August. It showed that almost 50 per cent of post-probationers had jobs but failed to mention that, only the week before, on its back pages, the *TESS* had advertised more than 300 additional permanent jobs, taking the number of those in employment or about to get a job to more than 2,000—hardly the crisis of thousands not in work that Rhona Brankin wants to whip up.

Fact—the GTC survey does not show that an increasing number of post-probationers are not getting permanent jobs. In October 2006, when the Labour Party was in power, 54.7 per cent of all respondents to the GTC were in full-time or part-time permanent jobs. In April 2008, when the SNP Government was in power, 55.3 per cent of post-probationers were in a permanent job. That is an increase in the number of permanent jobs under our Government, not a decrease. Perhaps we need to introduce numeracy tests for some MSPs. Also, Presiding Officer, perhaps you could check the standing orders and inform us whether there are any rules that prevent Parliament from agreeing to a motion that is factually inaccurate. The self-same GTC survey also showed that 93 per cent of teachers were in teaching jobs of some sort by April 2008—more than when Labour was in power. The challenge is to make more of those jobs permanent, especially in the primary sector.

Nineteen per cent of Scotland's teachers are over 55 and 6,000 teachers out of a total of approximately 53,000 that we are funding are due to retire this year, providing job opportunities for approximately 3,000 probationers and the 3,000 who have finished their job guarantee year. Vacancies will also arise during the year as older teachers reach their retiral date. Furthermore, I would have thought that colleagues across the chamber would have welcomed the establishment of the teacher employment working group that I set up in June.

Rhona Brankin: Does the cabinet secretary accept that some councils in Scotland are cutting their teacher numbers?

Fiona Hyslop: I am aware that, despite its convener saying that it has an increased education budget, Glasgow City Council is not replacing teachers who are retiring. The Labour member might want to take up that matter with the Labour-led Glasgow City Council and ask what the situation is there.

Fact—the Labour Party might not like it, but there are now thousands of children in primaries 1, 2 and 3 who are already in smaller classes than they would have been in under the previous Government. In Dumfries and Galloway, P2 class sizes have been reduced from 30 to 25, and extra resource is being targeted at areas of deprivation. In Fife, 27 additional teaching posts have been created to start to reduce class sizes. Moray Council is reducing P2 class sizes in 2008. In North Lanarkshire, P1 classes have been reduced to a maximum of 23 this year. In Renfrewshire, the council is reducing P2 and P3 class sizes to a maximum of 25, and South Ayrshire Council has indicated that it will do likewise. There are already smaller class sizes for thousands of children.

Yes, the list includes councils—Fife Council and Moray Council, to name but two—that did not volunteer to have their class size reductions appear in their single outcome agreements. The Tory dossier is not a secret—that information is freely available. There was no requirement to include class sizes in the agreements.

David McLetchie (Edinburgh Pentlands) (Con): Why not? It is your flagship policy.

Fiona Hyslop: Fact—the concordat with local government notes the specific arrangement that means that the Government has provided funds to maintain teacher numbers at 53,000. With falling rolls in most parts of the country, that gives scope to reduce class sizes. That is what we have agreed with local government—that is the accountability structure that Mr McLetchie questions. I add that, since coming to power, the Government has provided an extra £9 million for 300 additional teaching jobs.

Fact—we do not need legislation to reduce class sizes. However, placing requests may put pressure on some—albeit few—classes; therefore, we will keep the situation under review.

David McLetchie: Will the cabinet secretary give way?

Fiona Hyslop: I am conscious of the time.

Margaret Smith may want to note that the current court cases cite the previous Administration's policy, not ours.

Margaret Smith (Edinburgh West) (LD): Change it—legislate.

Fiona Hyslop: I hear calls for legislation. We have said that we will keep the situation under review. I expect that, should the Government decide to introduce legislation to address matters, we would get full support from Labour and Liberal Democrat members. That might be difficult for the Conservatives, who do not want to see any class size limits because, if headteachers are to have

discretion, that might cause difficulty for legislation on placing requests in the future.

I warn those members who appear to be in haste to oppose the Government that they may be taking at face value what they would like to believe rather than what the facts tell us. I rest my case on the facts. I do not pretend that the system cannot be improved. I have set up a teacher employment working group to assess the situation, which involves the unions, the employers, the Convention of Scottish Local Authorities and the headteachers. The truth is far from the situation that is portrayed in Rhona Brankin's motion. I let the facts speak for themselves.

I move amendment S3M-2525.3, to leave out from "with concern" to end and insert:

"that the Scottish Government has set up the Teacher Employment Working Group, due to report in October 2008, which includes members from the General Teaching Council for Scotland, teacher education institutions, COSLA, the Association of Directors of Education in Scotland, teacher unions, the headteachers' associations and the Scottish Government, to establish whether the long-standing teacher workforce planning process remains fit for purpose."

10:41

Elizabeth Smith (Mid Scotland and Fife) (Con): In 2006, the GTC's probationer programme was described as world class, as were many of the methodologies that are used in the continuing professional development programme to increase incentive and professional standards. Personally, I do not think that there is any doubt that the quality of aspiring teachers who are moving into the profession is as good as it has ever been.

It is ludicrous to assert that any Government must be able to find every qualified teacher and probationer a permanent job. That is naive in the extreme and pays no heed to the nature of the teaching profession. Nonetheless, the current situation, as outlined by Labour this morning and by many reports in the media, is totally unacceptable. I will spell out what needs to be done and will focus on two slightly different issues. The first is the lack of certain jobs; the second is a mismatching of skills. In my opinion, those two issues require different solutions.

In talking about the lack of jobs, especially in some urban areas, let us be clear about what has happened. Councils such as the City of Edinburgh Council and Glasgow City Council, which have the potential to employ a large number of teachers and are often seen as attractive areas in which to teach, are under huge financial pressures in their education budgets. Those pressures arise from the class size policy, from uncertainty in the school building programme for the school estate, and from curriculum change.

Kenneth Gibson (Cunninghame North) (SNP):

Is the member aware of the fact that Labour-controlled Glasgow City Council had a £15.3 million underspend last year but refused to put an additional penny into its education services?

Elizabeth Smith: I am very aware of that fact.

I want to concentrate on the fact that the financial strictures are causing part of the problem. The financial strain on councils is enormous. Although, in theory, the class size policy ought to provide more jobs in primaries 1 to 3, it is abundantly clear that the financial pressures are far too great to permit that. They create the potential for cutbacks in other year groups—indeed, many councils have said that.

Last week, I was strongly critical of the rigidity of the Government's class size policy, and I will be so again this morning. Indeed, I will ask for the abandonment of the policy as a directive from central Government. Having spent a great deal of time listening to evidence in the Education, Lifelong Learning and Culture Committee and to the parliamentary responses that have been given to my colleague, David McLetchie, I am utterly convinced that the cost of the policy to the rest of the education service—especially in respect of teaching jobs—has not been properly thought through. If, on one hand, we try to free up the market by allowing COSLA, through the historic concordat, to have more say in the placing of teachers yet, on the other hand, we fix one side of the market, we will end up with two incompatible economic systems. Given Alex Salmond's recent conversion to Thatcherite economics, I would have thought that the Government could work that out for itself.

The rigidity of the policy manifests itself in other ways. Yesterday, I listened to a headteacher telling the Education, Lifelong Learning and Culture Committee that, if he wants his school to advertise a vacancy, three things can happen. The vacancy can be advertised in the newspapers; there can be a transfer of a surplus teacher from another school; or a commitment can be made to take on a probationer, once they are fully qualified. However, the decision is not his—it is the local authority's, and he has to go along with it even if he has interviewed some very good candidates. Because of the barriers of the situation, he is in a difficult position. That cannot be right. There is a complete inconsistency between the aspirations in the teaching profession and what councils will allow because of red tape and budgetary restraints. We need a much more flexible approach that is properly driven by the demand for jobs as opposed to the artificial targets that the Government is trying to impose. Above all, headteachers must have far more power.

Another issue is the mismatch of skills, and I find it especially worrying that the Government is not spending enough time on the matter. I appreciate that the cabinet secretary has given £9 million to create 300 more jobs, but are those jobs the right ones? Is some of the problem not down to geographical immobility or a poor knowledge of the marketplace?

Fiona Hyslop: We provide resources to local government, which then seeks to deploy them.

As for the geographical issues that the member has referred to, we wanted more teacher training places in Aberdeen and on the Crichton campus in Dumfries to address those very challenges.

Elizabeth Smith: I simply hope that the cabinet secretary appreciates that the issue is very important.

It goes without saying that we cannot have excellent schools unless we have excellent teachers. Scotland has the potential to have just that, but not under the present structure. Government needs to understand the nature of the problem, to address the right issues and, above all, to abandon its unworkable policy on class sizes, which is doing so much damage to everything else in education.

I move amendment S3M-2525.1, to leave out from "show leadership" to end and insert

"make a ministerial statement on this subject as soon as practicable following receipt of the report of the Teacher Employment Working Group."

10:46

Margaret Smith (Edinburgh West) (LD):

Anyone who attended yesterday's meeting of the Education, Lifelong Learning and Culture Committee will realise the importance of this debate. The committee heard the EIS, the GTC, School Leaders Scotland and a recently qualified teacher who is searching for a permanent post refer to the situation confronting probationer teachers as being a "tragic waste of talent", "a betrayal", "an economic waste" and "soul destroying". No one will claim that the previous Administration delivered a 100 per cent job guarantee, but the cabinet secretary is doing the teaching profession and the Scottish education system no favours by acting as if there is no problem. Even if she chooses to ignore our voices, she cannot ignore theirs.

The *Times Educational Supplement Scotland's* survey suggests that of 3,426 probationer teachers who were looking for employment last year, only 770 found permanent jobs—just 22 per cent.

Fiona Hyslop: I must correct Margaret Smith; the survey is not about last year. *TESS* took a

snapshot in August, which showed that 700 had permanent jobs and another 700 had temporary jobs. Moreover, the week before, the paper had advertised an additional 300 permanent jobs—which, I think, takes the total to over 2,000.

Margaret Smith: The survey was about last year.

TESS also recognised that the logjam of probationary teachers is a result of the Government's failure to implement its class size pledge, and of the tight education budgets that it has passed on to councils.

Since 2004-05, not only has there been a decrease in the proportion of probationers being employed but, worryingly, there has been a decrease in the number of permanent posts for those who are already employed, especially in primary schools where, according to the GTC, only 40 per cent are on permanent contracts. That represents a serious waste of talent in what is probably the best generation of teachers we might ever have in our schools. It is of mounting concern for the young and not-so-young Scots who are in the process of qualifying as teachers. Despite being encouraged to take up careers in education, many of them now seem to be destined for unemployment and disappointment. That situation will have a medium-term impact on the number and quality of those who might come forward—possibly, as we heard yesterday, from other professions—to train as teachers.

The longer newly qualified teachers remain unemployed, the more they become deskilled and the more difficult it is for them to compete in interviews. We should never lose sight of the human stories behind the statistics or of the demoralising effect that the situation has. After all, their inability to get permanent contracts impacts on people's ability to get mortgages and to make other financial commitments to their families' futures.

Our amendment focuses on class sizes simply because if the Government had made the necessary funding available to give its class sizes policy any hope of being delivered, one welcome by-product would have been the employment of many of the newly qualified teachers who are currently sitting at home watching daytime television or who are leaving the profession before they have truly entered it. Although the Government said it would cut class sizes, it has not provided the cash, nor is there—as recent court cases have shown—the legal framework that would be needed to do that. The legal requirement for classes of 30 remains—it would be interesting to know whether the cabinet secretary intends to change that. From what she has said today, I do not think that she will.

The cabinet secretary also said that there is no need for legislation. She probably feels that way because introducing any legislation would require the production of a financial memorandum, which would be very unlikely to happen, given that the SNP is trying to run away from the true costs of the policy.

The Government said that it would match the previous Administration's school building programme "brick for brick", but there is still no clarity about from where we will get the £422 million that is, according to the Association of Directors of Education in Scotland, needed to build the school buildings that would be required to reduce class sizes.

The pure and simple fact is that the class sizes pledge lacks the necessary funding. We know that councils are struggling with the issue; indeed, 21 of the 32 single outcome agreements fail to mention it. The cabinet secretary says that that is because the agreements did not need to mention it. Why not? If this is a flagship policy, why did the Government not insist on its being given central place in the agreements? For the past 15 months, we in this chamber have heard nothing else but how the historic concordat is going to make everything okay. Nine of the other 11 councils said what we all know: they do not have the money that is needed to implement the policy.

The witnesses at yesterday's Education, Lifelong Learning and Culture Committee made it clear that although workforce planning is important, the essential mismatch between SNP Government rhetoric and the day-to-day financial reality for councils means that councils in Aberdeen and Glasgow are cutting teacher numbers, not increasing them. Indeed, the EIS said that that is a trend across Scotland and that no sector is immune. Cuts are being made across the board, even—which I am sure we all deplore—in additional support for learning.

We welcome the establishment of the teacher employment working group, which is why we are happy to support the Conservative amendment. It will very sensibly allow us to have the group's input before the cabinet secretary makes another statement to Parliament on this important issue. However, given that the group's remit does not cover funding, it will obviously not be able to answer all our questions. The EIS, the GTC and others have made it clear that long-term workforce planning cannot anticipate the short-term political decisions that councils might have to take in the face of financial difficulties.

As I have said, many local authorities have already acknowledged that they will fail to implement the Government's commitments. It is crucial that access to quality education does not become yet another postcode lottery. The Scottish

Government made a national commitment: its job is to uphold it throughout the country.

I hope that this debate will be a shot in the arm for the SNP. We need to take action on this vital issue for the hundreds of Scots who have trained so hard to deliver improved education for our children. All they are asking for is a chance to do just that.

I move amendment S3M-2525.2, to insert after "class sizes are rising,"

"highlighting that the SNP's manifesto commitment to reduce class sizes to 18 in P1 to P3 is in utter chaos, with insufficient funding, a lack of a legal framework and the omission of the policy from 21 out of 32 local authorities' single outcome agreements,".

10:51

Mary Mulligan (Linlithgow) (Lab): Given that the probationer teachers scheme has received a lot of praise from Audit Scotland, the Organisation for Economic Co-operation and Development and many educational commentators, and has been admired by professionals from all over the world, why are there such problems? Are teachers a year later facing the same uncertainties that they faced before the scheme was introduced?

As various members have already pointed out, the Education, Lifelong Learning and Culture Committee took evidence yesterday on the current situation. We heard from a teacher about her problems in finding a full-time permanent post and the financial and personal pressures that she is under. However, she is content to face all those pressures, because she wants to teach and believes that she has much to offer our children. I agree with her.

Headteachers' leaders told the committee that although they would like to employ many of the people who have completed the probationary year, they cannot do so because they do not have the finances. The EIS expressed the same concern and stressed that local authorities do not have enough money to fund additional teachers. The fear is that budgets will get tighter; in fact, the EIS told us that two thirds of councils are cutting their education services.

Those concerns have been raised not by Opposition politicians but by those who work in our education services every day. However, the most worrying aspect of the situation is the cabinet secretary's complacency over the issue. She has told us that she has acted, so let us look at what she has actually done. As she said this morning, in 2007-08, £9 million was provided to local authorities to employ extra teachers. However, only £6 million was available that year and only £5.7 million was applied for through the national

priorities fund. To be fair, I should point out that the funding provided 245 extra teachers.

Fiona Hyslop: I remind Mary Mulligan that this Government came to power in May 2007, after the start of the financial year. The £9 million that was made available for 300 jobs was not just for one year, but for every year. As the measure was implemented in September—that is, after all, when the new autumn term started—the full £9 million was not, of course, going to be available in the first year. However, that £9 million, and the 300 additional jobs that it provides, is still in the budget.

Mary Mulligan: So the £9 million is not for one year but for more than a year, which means that it is even less than we thought.

The cabinet secretary has just made it clear that the money has now been baselined. Have the local authorities been told that? Are they using this money to employ extra teachers? Are we talking about £9 million, £6 million or the £3 million that was left over? Does the cabinet secretary know the answer to those questions?

Setting up the teacher employment working group was the second thing that the cabinet secretary did. In the Jim Hacker ministerial school, when a minister is in trouble, setting up a working group is always the first line of defence. As Margaret Smith said, that group's remit focuses on workforce planning and processes. To focus on those things might be useful, but the real issue is finance. All the policies on lower class sizes, non-contact time and children with additional support needs point to the need for more teachers.

It was made clear to the Education, Lifelong Learning and Culture Committee that none of the Government's aims will be achieved without additional money. That is the problem. The cabinet secretary did so badly in the spending review that there is no money. Ministers may say that they have given local authorities the necessary money to fund the commitments that have been made, but that is inaccurate. I think that when the Education, Lifelong Learning and Culture Committee starts to scrutinise the outcome agreements and local education spend, as we have agreed to do, we will see that what the ministers have said is inaccurate.

The cabinet secretary needs to show leadership. She needs to stop believing Mr Swinney's line about being a team player in the Cabinet; rather, she needs to stand up for education. She needs to stand up for the children, young people and teachers in our education system. She has the job of helping all our post-probationers find jobs for the benefit of our education system. I say to the cabinet secretary, please try to act.

10:56

Kenneth Gibson (Cunninghame North) (SNP):

Workforce planning many years ahead is difficult, and primary schools know that particular difficulties exist. However, we should not be too hard on the former Lib-Lab Executive, which six or seven years ago decided the number of people who would apply to university to be teachers in 2002, begin their bachelor of education degree in 2003, graduate in 2007 and complete their probationary year last June. Decisions about the number of undergraduates who would enter the one-year postgraduate diploma in education course and graduate this year would, of course, have been taken in 2004.

Scotland has been haunted by teacher shortages for decades. I recall that there were 59 children in my primary 1 class and that, at secondary school, I had no science teaching until my third year. A Labour Government was in power then. Even now, there are shortages of primary teachers in some local authority areas, where local authorities have recently had to look for teachers overseas. That is why some pre-probationers are paid a £6,000 bounty to train wherever they are needed. There are also shortages of teachers to teach some secondary school subjects, such as maths, English and physics.

Rhona Brankin: Kenneth Gibson talks about class sizes being larger when he was at school. Does he accept that class sizes, especially in secondary 1 and S2 English and maths, are going up?

Kenneth Gibson: I am afraid that I do not accept that.

We know that 100 or more teachers apply for jobs at some schools. That has always been and always will be the case at the best schools. However, if teachers applied for jobs at 10 schools and each of those schools received an average of 50 applications—some schools receive many fewer applications—that would mean that five teachers were applying for each job rather than 50. In addition, new vacancies are continually being advertised; indeed, some 539 have been advertised in *TESS* in the past three weeks alone.

Projections far into the future on the number and geographic spread of teachers who will retire, the number of undergraduates who might drop out of their courses and budgets are difficult to make. However, the *TESS* of 29 August estimated that 3,359 teachers will be needed this year and that 3,426 will complete their probationary year—a 98 per cent fit. Perhaps the number of new teachers who will be required will be more or slightly less than that. This is not an exact science. However, I am pleased that, according to the General Teaching Council for Scotland, 93 per cent of the

2007 cohort of probationers have now found work. That is due partly to the SNP Government's full funding of 300 additional teachers last autumn, which is now included in baseline local government funding.

Some councils are, of course, playing games. In Glasgow—one of only two Scottish councils under outright Labour control—despite the £15.3 million underspend in the previous financial year that I mentioned earlier, and despite the urgings of the SNP opposition, not a single penny extra was committed to education and to reduce class sizes, even in the most deprived parts of that city. That is despite Glasgow City Council's level of educational attainment being the poorest of any local authority and its having the lowest proportion of spend on education. Some 25 per cent of its total budget has been committed to education, compared with 47 per cent of the budget of East Renfrewshire Council, which has the highest level of attainment. It is curious that Labour and the SNP are in the administration there. Many Glasgow parents try to send their children to East Renfrewshire. We know that Labour in Glasgow places a low premium on education, because it dispensed with 61 nursery nurses between 2004 and 2007, when the Labour Party was in power in Glasgow, Holyrood and Westminster.

A little more common sense and a little less hysteria—particularly from Rhona Brankin—are required when it comes to teacher numbers. In *The Herald* last week, Rhona Brankin ludicrously declared that Labour had provided

"An additional 53,000 teachers since 1997."

Given that there is roughly that number of teachers in Scotland, is she seriously suggesting that Scotland's education system truly began only in 1997, as its year zero? I now wonder who those mysterious men and women who wrote on the blackboard at the front of my classrooms were.

The Scottish Government has established a working group on teacher employment. I look forward to reading its findings when they are published in October and to significant progress being made over the coming year.

11:01

James Kelly (Glasgow Rutherglen) (Lab): I welcome the opportunity to take part in this debate, and rise to support Labour's motion.

The debate, which comes at a crucial time for education in Scotland, is important. Three quarters of probationers do not have full-time jobs, the school building programme has ground to a halt and the SNP's class size policy is in tatters. I particularly welcome the opportunity to take part in the debate because the issue of probationary

teachers not finding employment has dominated in my constituency. In recent days, I have received e-mails and messages by other means from probationers who have urged me to say clearly in the chamber that probationary teachers are fed up with training for unemployment and that they want practical action.

The cabinet secretary gave a blizzard of statistics. The crucial thing about statistics is the trends that they show. Last year, 32 per cent of probationary teachers were in full-time employment; that figure has now declined to 22 per cent. The numbers have gone down.

Fiona Hyslop: The member says that we should consider trends, and he mentioned teachers on the dole. Perhaps we should consider the fact that in 2006, 295 teachers claimed jobseekers allowance and that, out of 53,000 teachers, the same number—295—are claiming that allowance this year. There is the same trend.

James Kelly: I am absolutely clear that the policies that the SNP is pursuing are putting probationary teachers on the dole instead of in classrooms. That is a waste of talent.

What response has there been from the ministerial team? Maureen Watt tells probationary teachers that they should “broaden their horizons”. That is a lazy response; probationers deserve better.

A probationer in my constituency left her previous professional career to study teaching, for which she retrained at her own expense. On completing her probationary year, her school described her as being “bright and innovative”, but she has found only a part-time position. However, she has been described as being one of the lucky ones, although she cannot get a loan for a car or a mortgage because she does not have a permanent job. What sort of reward is that for her dedication and hard work? I lay the blame for that squarely on the SNP.

The SNP goes on about the much-heralded historic concordat. In fact, there has been an historic bail out, because the concordat has resulted in a hands-off approach being taken to education policy. In addition, the lack of funding, the council tax freeze and the efficiency savings of 1.5 per cent have resulted in education budgets being squeezed. Some three quarters of EIS associations in Scotland have reported cuts in their council areas. As we have heard, councils are starting to employ probationers and to cut back on full-time posts. The direct result of the SNP's policies has been a weakening of morale and an undermining of potential.

In summary, it is time for action to reverse the situation. Rather than spend £280 million on a local income tax and make Scotland the most

taxed part of the United Kingdom, the money should be spent on creating real full-time jobs and providing hope to post-probationers. If the ministers believe in a smarter Scotland, it is time to get their act together and put teachers in the classrooms, rather than in the dole queues.

11:05

Aileen Campbell (South of Scotland) (SNP):

As a member of the Education, Lifelong Learning and Culture Committee, which only yesterday considered post-probationary teachers, I am glad to have the chance to debate this important issue further. As others have said, the education of our children is fundamental. As parliamentarians, we owe it to them to ensure that the system works, that each child has a good-quality learning experience and is taught by motivated and accomplished teachers. I am pleased that that is the case for the large majority of Scotland's children—it was, on the whole, the case under the previous Administration and it will continue to be the case under the Scottish Government. I would not be so petulant as to fail to acknowledge the achievements in the past few years.

As those who gave oral evidence to the committee confirmed, the post-McCrone set-up for new teachers is recognised internationally as being one of the best. The committee heard yesterday from a new teacher that her probationary year was essential in making her a good teacher. It gave her confidence that she had much to contribute in her chosen profession and to the children whom she will teach.

Of course it is upsetting to read stories about probationers who have not yet secured jobs. No member, regardless of their political colour, wants anyone who has dedicated time to achieve the necessary qualifications to become a teacher—their chosen vocation—not to get a job. Likewise, I have never liked to hear about graduates of the history, economy, physiotherapy or engineering departments in universities the length and breadth of the country ending up in temporary employment in call centres or similar while they pursue their dreams and aspirations for employment in their chosen fields. However, we all accept the importance of teachers, which is why the Government is doing all it can to help probationary teachers. As a result, as we heard from the cabinet secretary, in June 2007 the Government provided an additional £9 million to local authorities, which has provided 300 more teaching job opportunities.

Furthermore, the cabinet secretary has formed the teacher employment working group, which has the remit of examining workforce planning, finding out where improvements can be made and considering whether better matches can be made

between student numbers and employment opportunities. That is surely a positive and proactive approach to finding out how things can be improved. It is easy for people to say that something should be done, but until we know where the weaknesses and potential hurdles are, we can only stick on plasters, which is not a long-term or proper solution. As Kenny Gibson does, I welcome that sensible move and wish the cabinet secretary well with it. I hope that the group identifies not only where the problems may or may not lie but, crucially, that it recommends solutions.

For those who are seeking employment, I understand completely how difficult it is to cope without a job. However, it has never been the case that every single post-probationer has obtained a job immediately. As the Deputy First Minister said in Parliament last week, it has always been the case that new teachers have gained employment as vacancies have arisen during the year. That happened under Labour and will continue to be the case under the present Administration. We must heed Murdo Maciver's comments to the Education, Lifelong Learning and Culture Committee in May, when he said:

"the prospects of obtaining a teaching job are bright, even if some appointments will not be made immediately. We are approaching the targets. Probationers will be employed on a permanent basis sooner or later."—[*Official Report, Education, Lifelong Learning and Culture Committee*, 28 May 2008; c 1099.]

It is not responsible politics to create a culture of fear and to scaremonger on the issue. I accept that opposition parties have a duty to hold the Government to account, but I do not accept that negativity should be allowed to prevail to the extent that it begins to put off people from embarking on careers in teaching.

Rhona Brankin: The last thing that the Opposition wants to do is to put off people from choosing a career in teaching. However, does Aileen Campbell accept that it is the Opposition's responsibility to ensure that people hear the truth? Does she accept that many education cuts are being made the length and breadth of Scotland?

Aileen Campbell: I accept that scaremongering is not responsible politics. We heard in committee yesterday that the negative environment surrounding teaching and probationers is making people decide not to follow that career.

I am confident that the teacher employment working group will make suggestions to improve workforce planning, and that the Government will consider them carefully. I hope that Parliament supports efforts to give all our post-probationary teachers the very best chance to flourish in their chosen profession, and that we realise quickly that finger pointing and negativity are not the way to ensure that our Scottish education system retains its international acclaim.

11:10

David Whitton (Strathkelvin and Bearsden) (Lab): I welcome the opportunity to take part in the debate and I support the motion in the name of my colleague Rhona Brankin. I am sure that every member has a tale about their favourite teacher. I had two: Mr Muir, who taught me English, and Mr Wallace, who taught me economics and, probably more important, gave up his free time to teach me the basics of shorthand, which is a skill that I can still use today. The two men entered teaching by totally different routes: Mr Muir came through university and teacher training college, while Mr Wallace came into teaching at a later stage of life after spending time in the world of business and commerce. Both were inspirational in their own ways and I am indebted to them in ways that they will probably never know.

There are no teachers in my family, but I am acquainted with several teachers. Some have taught members of my family and others, including probationers, I have met while visiting schools in my constituency. I have met others who are just starting out on their careers. Today, we are focusing on those who are just starting out.

There is no disagreement on the need for more teachers. Even filling the gaps that are left by those who retire requires a steady stream of new recruits. Teachers do not have an easy job. Indeed, given the statistics that show that assaults on teachers are increasing, and the stories about the misbehaviour that they must deal with daily, it is a wonder that anyone would want to become a teacher in the first place. However, teaching has always attracted excellent candidates—people who see the role of educator more as a vocation than as a career. That is why the Government's inability to meet its promises on class sizes is such a betrayal—it is a betrayal of trust and of opportunity.

Unlike the cabinet secretary, I congratulate *TESS* and its editor, Neil Munro, on the survey that it published on 29 August, which highlighted the scale of the problem that Scotland's probationary teachers face. It seems that the SNP is only fond of surveys that it commissions. The cabinet secretary said that the survey was partial and "out of date", but even if the vacancies that she talked about were filled, that would leave 2,000 probationary teachers looking for a job.

Fiona Hyslop: There are 770 post-probationers in permanent jobs and another 750 have temporary jobs, which makes about 1,500. Another 300 jobs were advertised in just one week. That is 2,000 post-probationers who are in a job or about to go into one out of a total of 3,000. That is before we take into account retirements throughout the year. It might be helpful if Mr Whitton thought about addition in considering the matter.

David Whitton: A blizzard of statistics, but no answers—that is typical of the cabinet secretary.

The survey's table of probationers who are and are not in employment contains figures for my council area of East Dunbartonshire. It shows that 81 probationers were employed in 2007-08, with 45 in the primary sector and 36 in the secondary sector. The table states that only 10 of those have secured permanent jobs, although when I asked about that this week, I was told that the actual figure is only six.

What would be the assessment of our probationary Cabinet Secretary for Education and Lifelong Learning? On grasp of detail, she lacks focus; on communication skills, there is room for much improvement; and her continued employment depends on the favour of a sympathetic headteacher. The report card on the Minister for Schools and Skills, Maureen Watt, has been censored to avoid intrusion into private grief.

Tomorrow in East Dunbartonshire, I will meet three headteachers from Malawi who are visiting my constituency. They will be astonished to learn that we have 2,000-plus teachers looking for jobs. Consider what they would give to employ those teachers in their country. Recently, we heard that schools in Glasgow are struggling to teach English to the children of immigrants who have arrived in the city. Is it beyond the wit of the cabinet secretary to make money available so that probationers can be employed to provide special English classes for those children? That way, they would learn the language much quicker.

The cabinet secretary may want small class sizes for primaries 1 to 3, but she knows that that will not happen any time soon in many parts of Scotland. It will certainly not happen in East Dunbartonshire, where the council estimates that it would cost more than £4 million to implement the policy. That means that the cabinet secretary and her colleagues must consider more innovative ways of offering jobs to probationers to keep them in the profession—before it is too late.

11:14

Hugh O'Donnell (Central Scotland) (LD): It is sad that we are faced once again with a debate on the appalling record of the SNP Government when it comes to supporting our pupils, teachers and schools. David Whitton referred to the litany of statistics on the burgeoning numbers of unemployed newly qualified teachers who have been driven to seek casual employment on supply lists; indeed, some have left the profession out of pure economic necessity. It is a national scandal.

The Government should hang its head in shame at the growing list of broken promises on the education system, which is to say nothing of the

money wasted on training teachers who are increasingly finding that, because they cannot get appointments, they are demotivated, demoralised and wondering what their future holds.

The cabinet secretary spoke—in the smarter Scotland debate, I think—about the 300 additional teachers and the money that pertains to them. How much impact has that money had on improving employment rates and reducing class sizes? Moray Council estimated last year that it would need 45 extra teachers to meet the class-size obligation; it recruited nine probationers. Angus projected that it would need 70 teachers to meet the class-size commitment, but it recruited 31 probationers. Overall, the figures show approximately a 50 per cent success rate. That is serious.

Fiona Hyslop: I think that the member refers to information from individual councils and directors of education. Indeed, the Association of Directors of Education provided information to the Education, Lifelong Learning and Culture Committee on the subject. That information was a snapshot to demonstrate what would be necessary if a big-bang approach were taken. Everybody recognises that that is not the case, therefore the progress that has been made, even by Moray Council, should be welcomed.

Hugh O'Donnell: Any reasonable person would welcome the employment of probationers, but Glasgow asked for 397 teachers and was able to recruit only 14, notwithstanding the comment about its underspend. That does not constitute progress of any substance.

What have the cabinet secretary and her department done? Her department is our Nero—while the school system and the Government's support for it go up in flames, the Government fiddles about with self-congratulatory debates and passes the buck to other agencies, rather than take one iota of responsibility for the chaos. There is not one iota of clarity about timescales, funding, support or anything else. Who suffers? Our children, their teachers and the future of our country.

We need look only at the Government's responses to some written questions to confirm my assertion about passing the buck. To use the cabinet secretary's phrase, this is just a snapshot. Since June last year, 69 per cent of questions about education were passed to local authorities to answer; 7 per cent were passed to higher and further education bodies; 7 per cent were passed to the Scottish funding council; 7 per cent went to Skills Development Scotland, about whose remit we are not clear and whose strategies are not yet fully evolved; and 7 per cent were passed to Architecture and Design Scotland. That is not acceptable. As various speakers have said, the

situation needs leadership. It needs the Government and ministers to acknowledge and accept responsibility.

If we look at the performance of the SNP Government in pure marketing terms, we see that it is nothing like Ronseal—it does not do what it says on the tin. As far as I can see, it is much more like Teflon because nothing sticks.

11:19

David McLetchie (Edinburgh Pentlands)

(Con): Today we are debating manpower planning in the teaching profession but, of course, we have had similar problems with other professions. Members who were here during the previous session will recall, for example, being lobbied by physiotherapy students complaining about the number of physiotherapy graduates who were unable to find employment in the national health service. Earlier this year, there was a focus on the employment prospects of junior hospital doctors.

For every regulated profession with a compulsory training and registration system it seems that we invariably end up with the expectation that the Government—of whatever complexion—that controls and regulates admission to such professions, and which encourages people to undertake such courses of training and study, and which finances those studies from taxation, should somehow ensure, if not guarantee, that those who emerge at the other end will have a job. Although that situation is not peculiar to the public sector—the same applies to solicitors and architects, for example, who are based more in the private sector—it is particularly acute in the public sector because government, in the widest sense of the word, whether it be a health board or local authority, is seen as the monopoly employer and, as such, is believed to be capable of controlling both supply and demand. That is a dangerous and false assumption.

The previous Executive put in place the teacher induction scheme, which guarantees graduate teachers a probationary year and much praise has been heaped upon it. We must resist the temptation, however, to believe that employment thereafter can be planned to the n^{th} degree and that, somehow, a perfect match can be achieved between teacher supply and teacher vacancies in all 32 local authority areas in Scotland. That is a Stalinist mindset that is doomed to fail.

Rhona Brankin: Will the member give way?

David McLetchie: Oh, here is—[*Laughter.*—no, I will resist the temptation.

Rhona Brankin: The member might have been sorely tempted to call me that, but he would have been inaccurate.

Does the member not accept that the budgetary settlement for education has a direct impact on teacher employment at local level?

David McLetchie: It absolutely does; the budget is a huge factor and should be taken into account when trying to achieve a broad match between the numbers of people starting out on teacher training, whether for primary or secondary, and the numbers likely to be required, with a bias towards the supply side. Having done that, the Government should stand back, let teachers and councils get on with it and resist the temptation or compulsion to interfere, overregulate and overdirect.

One policy that could make a difference to employment prospects for probationer teachers is the infamous SNP class size policy. As we know from one of the few single outcome agreements that bothers to refer to the policy, the implementation in Edinburgh of even a scaled-down version of the policy would require the employment of an additional 205 full-time teachers at an annual revenue cost of £7.7 million. However, there are a few problems with the policy, as Mary Mulligan and Margaret Smith pointed out. The first problem is that the council does not have a spare £7.7 million per annum to employ 205 teachers. The second is that the council does not have another £16 million, which it would need to spend on adaptations to school buildings.

Accordingly, the council is now working on plans for supersize classes using team teaching, which means that our youngest schoolchildren could find themselves placed in classes of between 36 and 60 pupils with two teachers. When the SNP said emphatically and unequivocally in its manifesto,

“We will reduce class sizes in Primary 1, 2 and 3 to eighteen pupils or less”,

little did parents in Scotland know that the reality would be more supersize classes.

The policy is an ill-considered nonsense that will distort investment in our school estate, in teacher recruitment and employment and will have negative impacts on the education of older pupils in primary and secondary schools. The Government should put its policy on the crowded broken-promise shelf where it can jostle for room with grants for first-time home buyers and the cancellation of student debt. Having done so, the Government should then focus on the real challenges facing Scottish education and on giving our newly qualified teachers opportunities to work at all levels of school education.

I support the excellent amendments from the Smiths, who are in perfect harmony and who will produce a wonderful composite motion of which the Parliament can be proud.

11:25

The Minister for Schools and Skills (Maureen Watt): In lodging the motion that we are debating today, the Labour Party has sunk to new depths. By initiating a debate on the basis of a newspaper article whose accuracy it has failed to check, it has shown just how lacking in flair and imagination it has become. Labour members' attitude is to say, "Och, if we can't think of anything else, let's have a go at the hoary old chestnuts of class sizes and teacher numbers. We'll get a cheap political headline even in the face of the real picture." They fail to recognise that in June last year the Cabinet Secretary for Education and Lifelong Learning put in place funding for an extra 300 teachers; I point out to Mary Mulligan that that money has now been mainstreamed into local government funding. They fail to recognise that in June this year the cabinet secretary set up a working group, to report within four months, on teacher workforce planning and on whether the current policy is fit for purpose.

Mary Mulligan: Can the minister guarantee to the chamber that the £9 million that has been made available—if it is £9 million this year—will be spent on additional teachers?

Maureen Watt: Mary Mulligan knows that in the concordat local government agreed to maintain teacher numbers at 53,000 in the face of falling rolls.

Labour members fail to recognise that, as the cabinet secretary indicated in her speech, class sizes in primaries 1 to 3 are falling in local authority areas throughout the country, regardless of whether that is specified in local outcome agreements, because local authorities know that reducing class sizes is national Government policy.

Lewis Macdonald (Aberdeen Central) (Lab): Will the minister indicate whether class sizes are falling in her home local authority area of Aberdeen? Will she confirm that the number of teaching posts in Aberdeen schools in this school year is 30 lower than it was in the previous school year?

Maureen Watt: Will the member never accept responsibility for the fact that the decisions that Aberdeen City Council now faces should have been taken on the Labour Party's watch?

Labour members are unable to admit that the vast majority of new teachers know well and accept that the Government must provide a supply of teachers ready for deployment throughout the year and throughout the country. Directors of education, the GTC, education ministers and others make that perfectly clear whenever they meet probationers and newly qualified teachers.

Aileen Campbell quoted Murdo Maciver, who said that most probationers obtain permanent

jobs. On 29 August, John Stodter of ADES said in the *Times Educational Supplement Scotland*:

"You want some competition—you don't want a market where everybody gets a job easily. If folk were more willing to move as they were in our day, they might have less of a problem".

The Opposition parties would have us think that it is outrageous that some teachers go to work in England or further afield, but it is a well-known fact that for decades Scottish and Welsh teachers were the backbone of the teaching profession south of the border. The speeches of Opposition members have been sadly lacking in practical suggestions, other than throwing some non-existent pot of money at their perceived problem.

Spending some time in different schools can be a useful experience for teachers, as it enables them to see different approaches to learning and teaching in different environments. The prospects for newly qualified teachers in Scotland are excellent. They are entering a profession that faces exciting and challenging opportunities in the way in which we deliver education in our schools. They will enjoy a professional autonomy that has not been available to teachers for a generation. Yesterday the Civitas think-tank became the latest body to support smaller class sizes; at the same time, an OECD report noted that we still have some of the largest class sizes, compared with our competitors. Today it is argued in *The Scotsman* that smaller class sizes are indisputably a good thing.

Just imagine the outcry if by next spring there were not enough teachers in the system to cover for illness, retirements and maternity leave—would the Opposition have the brass neck to say that we had underestimated need? The Government is travelling in the right direction, a fact recognised by the Scottish people, even if the Opposition parties in the chamber are slow on the uptake.

11:30

Ken Macintosh (Eastwood) (Lab): "Soul destroying", "a betrayal" and

"a tragic waste of talent and skills".

Those are not my words—to use the First Minister's favourite expression—but the words used by a panel of witnesses at yesterday morning's meeting of the Education, Lifelong Learning and Culture Committee to describe the scandalous lack of teaching posts for this year's probationers. Hundreds of teachers have been left demoralised. Hundreds of motivated, highly trained, bright young graduates have been left wondering where they went wrong. Surely, a year and a half in, the new SNP Administration could not let teachers down so badly.

I doubt that there is an MSP in the chamber who has not heard from anxious probationers in their constituency. What makes matters worse is the fact that this year's letters do not signal a new problem. The situation is not a surprise to the minister—it is utterly and depressingly predictable. The surveys that have been carried out by the General Teaching Council for Scotland and the *Times Educational Supplement Scotland* make it absolutely clear that the problem has been growing over the past three years. Fewer probationers are securing employment in the teaching profession. Of those who find a job, especially in the primary sector, fewer are securing permanent contracts. In her speech, Aileen Campbell suggested that the evidence that we heard amounted to scaremongering. By that logic, we should hear only positive evidence—a new, Pollyanna-ish approach to committee witnesses.

Around the country, in authority after authority, stories are repeated of little more than a dozen permanent jobs for hundreds of applicants. More depressing are the attempts of SNP ministers to use the one and only survey that has been carried out this year—in April—as proof that there is no problem. “Crisis? What crisis?” I hear ministers say. On the radio yesterday, the cabinet secretary not only used the one-off survey that was carried out in April to pooh-pooh the TESS's reporting of growing anxiety among probationers, but claimed that teachers were in “a very good position”. Is the minister the only one who does not know what is happening in our schools?

The GTCS has carried out three annual surveys, in October 2005, 2006 and 2007. The TESS compared the figures that it gathered this year to a similar survey that was carried out last year. As the minister knows—or should know—the trend that surveys reveal has the greatest significance. James Kelly made that point. Is it not striking that nearly everyone who looks at the figures recognises a very worrying trend in employment? The exception is the Cabinet Secretary for Education and Lifelong Learning, who declares herself satisfied on the basis of a one-off survey in April that is not comparable.

Fiona Hyslop: Does the member acknowledge that more teachers were in employment in April 2008, under this Government, than under the previous Government? Does he acknowledge that the number of permanent jobs for secondary teachers has increased under this Government, compared with the last year of the Government that he supported? Those facts are in the GTC survey, which is the basis of the inaccurate motion for which Ken Macintosh is asking members to vote. Surely he should put the facts on the table. That is what the Government is doing.

Ken Macintosh: The cabinet secretary's gall is astounding. She is prepared to dismiss the surveys out of hand because they do not support her rose-tinted perspective on education. At the same time, she is willing to quote selectively parts of the GTC survey that back up her position. I am quite prepared to recognise that there is no decline in the number of permanent posts at secondary level. Is the cabinet secretary prepared to admit that there is a problem of a declining number of permanent posts at primary level?

Fiona Hyslop: I said that I do.

Ken Macintosh: I believe that that is an admission.

Fiona Hyslop: I am more than happy to acknowledge that the biggest challenge is at primary level. The *Official Report* will show that I said that in my speech.

Will the member acknowledge that the GTC survey indicates that there were more teachers in permanent posts in April 2008, under this Government, than in the last year of the Government that he supported, when a similar survey was conducted? That makes the motion that he is putting before Parliament factually inaccurate.

Ken Macintosh: As the minister knows, we cannot compare a survey in April with three surveys in October. They are not comparable. For any trend to be discernible, we need previous surveys in April. The logic that the cabinet secretary brings to the debate is false.

The cabinet secretary now seems to be happy to quote from the surveys, but their findings are damning. For instance, two local authorities failed to offer a permanent job to a single one of their probationers. Can members guess which councils? They were the SNP-led Renfrewshire Council and SNP-led Aberdeen City Council. Renfrewshire Council's behaviour is worth examining more closely. It was willing to take on 170 probationers but not willing to offer one a permanent contract. The SNP-led council is cutting staff at each of its secondary schools so, in a disgraceful abuse of the system, class sizes are actually rising while probationers are used as some sort of cheap labour.

The problem is not only one of absolute numbers. Throughout the country, from council to council, there are huge variations in probationer employment patterns. As Margaret Smith said in her opening speech, that starkly illustrates the inherent weakness of the so-called concordat: the SNP central Government is able to say one thing, while local authorities—SNP-run local authorities—do another and our young probationers are caught in the middle.

Mary Mulligan, Mr McLetchie and other members referred to local outcome agreements, none of which seem to offer any hope to newly qualified teachers or parents who are keen to see the class size reductions that were promised avidly at the election and that, if implemented, would deliver the required teaching posts. More than half of those local outcome agreements failed to mention class sizes at all. That is why responsibility must rest with the SNP ministers. The cabinet secretary is happy to recruit all those new teachers, but equally happy to sign concordats with local authorities that make no mention of class sizes or staffing levels. That is fundamentally wrong and a dereliction of duty.

Witnesses at yesterday's Education, Lifelong Learning and Culture Committee meeting were united in praising the teacher induction scheme. They described it as infinitely superior to the previous system—a point that Aileen Campbell generously recognised. They were united, too, in identifying the causes of the problem: it comes down to a mismatch between SNP central policy direction and the reality of SNP education budget cuts. We were told that two thirds of local authorities are cutting their education budgets. That gives the lie to the talk of a generous settlement and of the money being there. The SNP Government is prepared to recruit teachers on the promise of a national policy of reducing class sizes funded from the centre but fails to agree on the priority that local councils should give the policy or to provide the funding to implement it. In every case, the cuts not only mean a loss of services but have a knock-on effect on the number of probationers.

With her repeated denials of any problem, the cabinet secretary is merely sticking her head in the sand. She needs to show leadership—not the kind that Maureen Watt showed in her overheated speech, in which she suggested that councils are to blame, and not only current councils but councils from several years ago. Recent court cases have demonstrated the need to set practical and legally binding class size limits, so why not legislate? Ministers appear to prefer to hide behind local government.

With no direction from the SNP Government, the short-termism and short-sightedness of each local decision has long-term consequences for the lives of too many young teachers. The minister needs to think again and come back to the Parliament with a plan of action.

The Deputy Presiding Officer (Trish Godman): As we have reached the end of the debate before the time set out in the *Business Bulletin* for the next item of business, I suspend the meeting under rule 7.4.1(d) until 11.40 am.

11:38

Meeting suspended.

11:40

On resuming—

Question Time

SCOTTISH EXECUTIVE

General Questions

School Building Programme

1. Ken Macintosh (Eastwood) (Lab): To ask the Scottish Executive when it will make an announcement on a nationally funded school building programme to help deliver school buildings around Scotland, including a new Eastwood high school and a new Barrhead high school. (S3O-4100)

The Cabinet Secretary for Education and Lifelong Learning (Fiona Hyslop): In response to parliamentary question S3W-16167, I informed Parliament this morning that the Scottish Government and the Convention of Scottish Local Authorities, in accepting the recommendations of the Audit Scotland report of March 2008, have established a joint working group to discuss future policy, funding and delivery and to prepare a new school estate strategy by next spring.

Under the current local government settlement, we are already providing local authorities with almost £3 billion of capital resources over three years—an increase of £115 million for this year and the next two years—to secure investment in schools and other infrastructure. We expect around 250 schools to be delivered over this parliamentary session. I met East Renfrewshire Council only last month and made it clear that investment priorities for individual schools are matters for the local authority.

Ken Macintosh: Having lodged my question before I heard about yesterday's statement on the Scottish Futures Trust, I fully expected to be overtaken by events. Imagine my surprise when, in a full parliamentary hour yesterday, the minister's colleague, Mr Swinney, seemed unable to provide any information on the new funding programme other than the name of the chairman—oh, and that it has no funds. I ask the cabinet secretary a simple question: will any pupils in Scotland benefit from a Scottish Futures Trust-funded school before the end of the parliamentary session in 2011?

Fiona Hyslop: I am delighted that yesterday's announcement means that the Scottish Futures Trust is being established. We have a new chair for it and we also, as of this morning, have an answer to Ken Macintosh's question that indicates

that we will produce our school estate strategy in the spring.

Yes, pupils will benefit from SNP policies. I was delighted this morning to visit Denny high school, which is under construction. That project was agreed to and committed to by this Government. Construction was started in June or July last year and the school will open for the benefit of pupils in the Denny area next year. I also point out that it is being funded on a not-for-profit basis.

Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): Wick high school in my constituency is in a dreadful condition, as I have mentioned in the Parliament many times. Councillors of all political complexions in Highland Council say that they simply do not have the funds to build a new school under the existing settlement. As the Scottish Futures Trust progresses, will the minister conduct an audit of school structures throughout Scotland and require councils to give the figures so that problems such as those with Wick high school will be brought to the top of her agenda?

Fiona Hyslop: The discussions that will take place with COSLA will do exactly what Jamie Stone asks: they will identify where in Scotland the priorities are and where attention is required. However, I acknowledge that, in discussions that I have had with Highland Council, it acknowledges that it has resources to make improvements. The council has made decisions about its priorities for its funding for the next four years. I understand that some funding will go to Wick high school but the council will, no doubt, be able to inform Mr Stone of that. His point is well made. That is exactly why we are responding to the Audit Scotland report's recommendations and will produce a school estate strategy in the spring.

Jackson Carlaw (West of Scotland) (Con): Is the minister aware of comments that were made by Mr Macintosh's Westminster parliamentary colleague—a Mr Murphy—who, following the meeting between Mr Swinney and East Renfrewshire Council to progress the new schools, claimed:

"This is a real blow to local families"?

Does the cabinet secretary agree that the co-operative approach that Conservatives, the SNP and local councillors in East Renfrewshire are pursuing is much more likely to bring about the creation of the schools?

Fiona Hyslop: The simple answer to that is yes. When I met East Renfrewshire Council, we had a constructive discussion. Too many Opposition members are prepared to take a cannot-do attitude; the can-do attitude that we are witnessing in councils throughout Scotland will be helpful. I enjoyed my visit to East Renfrewshire Council very

much and I hope to progress the matters that we discussed at the meeting.

Hugh Henry (Paisley South) (Lab): I thought I heard the cabinet secretary say that the school under construction that she visited this morning is being constructed because of a decision that the present Administration made. She said that the construction work started in June or July of last year, which would mean that the planning and approval for it would have been made before May 2007. Can the cabinet secretary confirm that, in fact, this Administration gave approval for that? If not, will she correct the misleading impression that she gave?

Fiona Hyslop: My understanding is that the Government came to power in May 2007. The approval for the Falkirk schools was given in May 2007. It is this Government, under our funding settlement, that supports Falkirk Council to the tune of £5 million on an annual basis. I would take the word of the site construction manager, who said that construction work started in June and July 2007, over the member's understanding.

Class Sizes

2. Rhona Brankin (Midlothian) (Lab): To ask the Scottish Executive whether its position remains that a reduction in class sizes to 18 for primaries 1 to 3 will be achieved in the lifetime of this parliamentary session, as stated by the First Minister on 5 September 2007. (S3O-4082)

The Cabinet Secretary for Education and Lifelong Learning (Fiona Hyslop): An historic concordat was signed with local government on 14 November 2007. Under that agreement, local government is committed to make year-on-year progress on the reduction of primary 1 to primary 3 classes to a maximum of 18 pupils.

Rhona Brankin: I have a simple supplementary question: are class sizes rising in any Scottish National Party-led council in Scotland—yes or no?

Fiona Hyslop: I am delighted that there are class size reductions across Scotland in a number of areas, including those of SNP-run administrations, not least in Fife and West Lothian, where we have seen significant progress.

Kenneth Gibson (Cunninghame North) (SNP): Does the cabinet secretary agree that one of the difficulties in implementing the class size reduction policy is that there is wilful opposition from, for example, Labour-controlled Glasgow City Council which, despite a £15.3 million underspend, refuses to invest in reducing class sizes, even in deprived communities, and places hostility to the SNP Government ahead of the educational future of children in Glasgow?

Fiona Hyslop: I understand from something Gordon Matheson said on Radio Scotland that Glasgow City Council's education budget has indeed increased over the past year. It is for the council to make decisions about the employment of teachers, but it would be disappointing if it did not use the opportunity of retirements this year to replace such teachers with the probationers and post-probationers we discussed in the debate earlier today.

Glen Oaks Housing Association (Meetings)

3. Bashir Ahmad (Glasgow) (SNP): To ask the Scottish Executive when it last met officials from Glen Oaks Housing Association. (S3O-4127)

The Minister for Communities and Sport (Stewart Maxwell): I met officials and committee members from Glen Oaks Housing Association in September 2007 to hear their concerns about the regeneration of the Arden neighbourhood. Since then, Scottish Government officials and the Scottish Housing Regulator have had a number of meetings with officials of Glen Oaks to discuss the work of the association. The most recent meeting was on 25 June 2008, to discuss the association's draft inspection report.

Bashir Ahmad: I thank the minister for that response. He will be aware of the deadlock between Glen Oaks Housing Association and Glasgow City Council, which has not been forthcoming with the money that is desperately needed for regeneration in Arden. How can he assist in that matter so that residents in Arden can benefit from the investment that they need and deserve?

Stewart Maxwell: I am aware of the frustration that is felt in Arden, particularly by members of the Glen Oaks Housing Association. It is for Glasgow City Council to consider proposals for the regeneration of the Arden area and their relative priority for funding. From my meeting with the association and from recent correspondence, I am aware that there is frustration in Arden that a regeneration strategy has not yet been agreed. I have written to the council asking that it update me on its timescales and I await a response. I am also aware that Councillor Gibson in Glasgow has written to the council and to me in pursuance of the same matter.

I understand the difficulties. I met the association and heard about the problems it faces. At that meeting, the constituency MSP for the area, Johann Lamont, expressed the view that there are real difficulties with taking the regeneration of Arden forward.

I still await a response from Glasgow City Council. I hope that it will arrive soon. I am happy to assist, if I can, by asking my officials to set up a

meeting between Glasgow City Council and Glen Oaks Housing Association to try to get them in the same room and agree a timescale for taking forward a strategy for the regeneration of the Arden area.

Johann Lamont (Glasgow Pollok) (Lab): I welcome the minister's comment that he is willing to convene a meeting to address the issues. That is a welcome step forward. Can he indicate how much of the up to £100 million that the First Minister announced can be expected to be secured for Glasgow?

Stewart Maxwell: The up to £100 million that the First Minister announced on 1 August will be allocated in the normal pattern of events, using the projects that housing associations across the country propose, according to the normal criteria. Money will be allocated to those areas that are in most need. That process is under way, and I look forward to announcements in due course.

Hospital Car Parks (Running Costs)

4. Rhoda Grant (Highlands and Islands) (Lab): To ask the Scottish Executive whether it will compensate national health service boards for the costs of running hospital car parks, following the recent announcement of the abolition of hospital car parking charges. (S3O-4091)

The Deputy First Minister and Cabinet Secretary for Health and Wellbeing (Nicola Sturgeon): Funding of £1.4 million is being made available to assist NHS boards that currently charge for car parking, over the transitional period to 31 March 2009. Thereafter, those NHS boards will be required to absorb the costs of providing and managing car parks from their unified budgets in exactly the same way as do other NHS boards that have not introduced charges for parking.

Rhoda Grant: Concerns have been raised by NHS Highland that it will have to find an additional £600,000 to cover the cost of running its car park year on year. In addition, it will need to find ways of improving the car park facilities to deter people who have no business at the hospital from parking there. Will the cabinet secretary give a commitment that that money will not be taken out of front-line patient services?

Nicola Sturgeon: As the member will be aware, income raised from car parking charges was never used to fund front-line services. It is important to draw to her attention the fact that the income raised from car parking charges across the five NHS boards that have charging amounts to one twentieth of 1 per cent of the total NHS budget. The nine health boards that do not charge manage to meet the costs of maintaining their car parks from within their budgets. It is fair and reasonable to expect the five that do charge to do likewise

when car park charges are abolished at the end of this year.

I would have hoped that Labour members, who have complained bitterly about charges since May last year—something that, curiously, they did not do when their Government introduced car park charging in our hospitals—would find it within themselves to welcome the decisive action taken by the SNP Government to abolish car parking charges instead of trying to find reasons to complain, as per usual.

Marlyn Glen (North East Scotland) (Lab): Does the minister agree that allowing car parking charges to remain at Ninewells hospital in Dundee and at the infirmaries in Edinburgh and Glasgow sets up a two-tier system that discriminates against those who use and work in the hospitals, which is hardly fair and reasonable? [*Interruption.*]

The Presiding Officer (Alex Fergusson): Order.

Marlyn Glen: Thank you. Does the minister also agree that that is an unacceptable extra financial burden on patients and staff, some of whom live in areas with high levels of deprivation? [*Interruption.*]

The Presiding Officer: Order.

Nicola Sturgeon: I heard somebody behind me say, "Unbelievable!" I could not agree more. I am not "allowing" car park charges to remain at Ninewells and the other two private finance initiative hospitals; I cannot stop the charges—because Labour tied the NHS into ridiculously expensive PFI contracts. It would cost tens of millions of pounds to get out of the PFI contract at Ninewells, which would hit front-line budgets. That fact simply serves to illustrate the scandal of Labour PFI, and all Scotland says thank goodness that it is in the past.

Work-related Assaults

5. Hugh Henry (Paisley South) (Lab): To ask the Scottish Executive whether it holds statistics on work-related assaults and, if so, what they were for 2006-07 and 2007-08. (S3O-4156)

The Minister for Community Safety (Fergus Ewing): Only police officers and other emergency workers are identifiable in the recorded crime and court proceedings statistics on assaults.

In 2006-07, there were 723 minor assaults of an emergency worker, 113 incidents of obstructing or hindering emergency workers in pursuance of their duty and 3,274 crimes of obstructing a police officer.

Also in 2006-07, 4,061 people were proceeded against for assaulting or impeding police officers

and 212 were proceeded against for assaulting or impeding emergency workers.

Figures for 2007-08 are not yet available.

Hugh Henry: I thank the minister for that full reply. It is clear that the legislation is now beginning to have an impact and that many people are now feeling the benefit of it, and I welcome the Government's extension of the number of people who are covered by it. It was right to start with emergency workers, but will the minister now reflect on the success of the legislation and on the fact that many others workers in Scotland, such as shop workers and transport staff, face not only intimidation but violence and assault day and daily? Will he consider ways of extending the legislation to give those workers the protection that the public believe they deserve?

Fergus Ewing: I agree with the sentiments that Hugh Henry has expressed. I think that we all accept in principle that an assault on any citizen of Scotland should be condemned and that the forces of the justice system have to be applied strongly to crimes against the person. Hugh Henry makes a case for the Emergency Workers (Scotland) Act 2005 being extended to cover other workers. I am always willing to look at that. Following Shona Robison's representations with regard to an odious assault on Scottish Water workers, we are looking at that. I am pleased that, this year, we have already extended the act to cover general practitioners, other doctors, nurses and midwives working in the community. I am pleased that we have a cross-party approach to this issue and I am sure that it will continue.

Hospital Car Parks (Charges)

6. Joe FitzPatrick (Dundee West) (SNP): To ask the Scottish Government what action can be taken to reduce the burden on patients, their families and staff caused by car parking charges at Ninewells hospital in Dundee and other hospitals with private finance initiative contracts. (S3O-4135)

The Deputy First Minister and Cabinet Secretary for Health and Wellbeing (Nicola Sturgeon): I am asking those national health service boards where parking charges remain because of PFI contracts to enter into discussions with the PFI providers to explore the opportunities for reducing charges for parking. Those NHS boards will report to me on the outcome of those discussions and I will give full consideration to those reports.

Joe FitzPatrick: I understand that the cost of buying out the PFI contract at Ninewells hospital could be up to 30 million public pounds. Will the cabinet secretary confirm the size of the financial

noose that the previous Administration's PFI contract has placed around NHS Tayside?

Nicola Sturgeon: I thank Joe FitzPatrick for that question and acknowledge the strong representations on the issue that he has made as the local MSP. I confirm what I said earlier: it would cost tens of millions of pounds to escape from the PFI contract at Ninewells, which was imposed by the previous Labour Administration. That illustrates the scandal of Labour-supported PFI. I confirm that we will do everything possible to get the charges down, but make no mistake—every person who has to pay car parking charges at Ninewells hospital is suffering the legacy of Labour's obsession with privatising our NHS.

National Health Service (Staffing)

7. Helen Eadie (Dunfermline East) (Lab): To ask the Scottish Executive when it last had discussions with chairs of NHS boards about staffing levels. (S3O-4087)

The Deputy First Minister and Cabinet Secretary for Health and Wellbeing (Nicola Sturgeon): Staffing issues are routinely discussed with national health service board chief executives and other members of board management teams. General workforce issues are covered in the annual reviews of all boards. The general workforce implications of "Better Health, Better Care" were also discussed collectively with health board chairs on 25 February this year.

Helen Eadie: Is the cabinet secretary aware that, in Dunfermline, nursing staff are under so much pressure owing to the shortage of nurses that a number of patients have experienced problems—such as my constituent, Mrs Thomson, who is in her late 70s and was required to wait for more than 30 minutes when she made a request for toilet assistance? Does the cabinet secretary agree that that is unacceptable? What will she do to address the needs of patients and alleviate the pressure on our hard-working nurses, who have complained to me about the shortage of nurses and are feeling pressured?

Nicola Sturgeon: I value greatly the contribution of nurses and all the other staff who work so hard in our national health service. The number of nurses and the overall number of staff in the NHS have continued to rise over the past year. If Helen Eadie has any particular constituency cases in which she thinks the standard of care has fallen below what it should be, I will be more than happy to take them up with NHS Fife.

First Minister's Question Time

12:00

Engagements

1. Cathy Jamieson (Carrick, Cumnock and Doon Valley) (Lab): To ask the First Minister what engagements he has planned for the rest of the day. (S3F-984)

The First Minister (Alex Salmond): Later today, I will have meetings to take forward the Government's programme for Scotland.

I am sure that all members will join me in celebrating a week of Scottish sporting success: the victories of our Paralympians in Beijing; Andy Murray's progress to the US open final; and of course the victory of George Burley's team in Reykjavik last night. I know that Cathy Jamieson will join me in ensuring that this is not the last world cup competition in which a Scottish international team competes, regardless of pressure from anywhere else.

Cathy Jamieson: I would just note that last night's successful Scotland team was led by manager George Burley, a good Cumnock boy.

On a serious matter, I will quote from a letter sent to the First Minister by the daughter of Scottish National Party Councillor Hanif, who has been exposed in the media for encouraging his children to fire a Kalashnikov assault rifle. She said:

"My siblings and I were put in an environment where people were pointing loaded AK-47 guns at each other. I cannot believe you have taken it so lightly."

Has the First Minister replied to that letter yet?

The First Minister: I have not replied as yet. I have seen the letter in the press, but I have not read the actual letter. I will certainly reply to the letter when I receive it.

I do not accept that the matter has been taken lightly by the SNP. Suspension from a political party is a serious matter. Councillor Hanif's actions have been condemned by the party as extremely unwise. I do not accept the interpretation that the matter has been taken lightly in any shape or form.

Cathy Jamieson: I will draw members' attention to the comments of the First Minister's colleague John Mason, who believes that SNP Councillor Hanif has been harshly treated by being suspended for a mere two months, describing that as "a bit severe"—

The Presiding Officer (Alex Fergusson): Ms Jamieson, I find that this is a matter of party rather than political interest.

Cathy Jamieson: I appreciate that this is a party matter, but I think that it is also something that the people of Scotland are concerned about.

The First Minister: I believe that this is a matter of party interest, but I will do my best to keep my answer within first ministerial responsibilities.

In terms of the general interest in such matters, perhaps the Labour Party would now like to join the Cabinet Secretary for Justice in taking action against the guns that are available in Scotland and to support our claim in Westminster that this Parliament should have the right to restrict air-gun access throughout Scotland.

Cathy Jamieson: I have no difficulty in working with any party that wants to reduce violent crime across Scotland. It is incumbent on politicians to set an example in that regard.

Does the First Minister agree with his colleague John Mason, who has branded critics of the SNP councillor as "racist"? [*Interruption.*] This is a serious matter. Does the First Minister believe that the editor of the *Evening Times*, the MP for Glasgow Central, Mohammed Sarwar, and the Conservative justice spokesperson, Bill Aitken, are racist?

The First Minister: No.

Cathy Jamieson: I am pleased to hear that response from the First Minister. Councillor Shaukat Butt, a senior and respected member of Glasgow's Asian community, said:

"John Mason's comments are ridiculous. It is wrong to suggest reports of Councillor Hanif's"—

The Presiding Officer: Ms Jamieson, can I be assured that the question that you are going to put falls under first ministerial responsibility?

Cathy Jamieson: I believe that it does, Presiding Officer.

Councillor Butt said:

"John Mason's comments are ridiculous. It is wrong to suggest reports of Councillor Hanif's actions have anything to do with race."

This is a serious matter. I believe that most ordinary, decent families will agree with Councillor Butt that John Mason's comments are disgraceful. Will the First Minister apologise for his colleague's comments?

The First Minister: Not for a second does John Mason accuse the range of people to whom Cathy Jamieson referred—or somebody else commenting on what John Mason said—of being racist.

I looked at one of the blogs on the matter and saw comments—not from any of the people whom Cathy Jamieson mentioned—that could be described only as totally unacceptable, about who

was and who was not a real Scot. I believe—*[Interruption.]* They were not on SNP blogs; they were on the blog of the Glasgow *Evening Times*, commenting on the story.

I believe that everyone in this country is a real Scot and that we should approach these matters without any tinge—as there was on that blog—of racist comment. The whole chamber should unite in deploring and deprecating racism in Scottish society, wherever it emerges. That point of unity should not be lost in an attempt to say what somebody might have said about somebody else and to gain party advantage.

Finally, I say to Cathy Jamieson—I wish her good luck on Saturday—that there is a whole range of issues across Scottish society for which I, as First Minister, have responsibility, and I would like this Parliament to have many more responsibilities. If she is successful in her competition on Saturday, perhaps in the future she might choose one from that array of subjects and not ask about internal party matters.

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-985)

The First Minister (Alex Salmond): I have no immediate plans to meet the Secretary of State for Scotland, although according to some of the reports in the newspapers I had better be quick or there might not be a Secretary of State for Scotland to meet.

Annabel Goldie: There will be after the next election.

Last week, I asked Nicola Sturgeon a simple question to which she had no answer. Let me repeat the question to the First Minister: by how much could we cut everyone's council tax bills if the £281 million subsidy that he says he can find for his Scottish national income tax were used to cut council tax instead? As I am ever ready to help the First Minister, I can give him the answer. With that money, the Scottish Conservatives would cut the council tax bill of every single household in Scotland—there are 2 million of them—by £150. In every year in which he can find that money, we can cut the tax for those 2 million households. Whatever their bill is, we will cut it by £150.

In these rough economic times, real help is needed as soon as possible. When will the First Minister find this money so that we can pass it on to those 2 million households?

The First Minister: It is precisely because real help is necessary that this Administration has frozen the council tax over the course of this parliamentary session.

The news that Annabel Goldie's party would restore the post of Secretary of State for Scotland, if it is abolished, must be considered good news for Mr David Mundell given that, if he survives the election, he would appear to be a strong candidate for such a post.

I draw attention to the fact that many people in Scotland, particularly pensioners who suffer under the burden of the oppressive council tax more than any other group, tend to support the abolition of the council tax rather than its modification.

Annabel Goldie: The only thing that matters is that the First Minister finds the £281 million, because in every year in which he can find that money we can cut the tax for 2 million households. Whatever their bill is, we can cut it by £150. The sooner he finds that money, the sooner we can start.

Last week, the Deputy First Minister said:

“the vast majority of people in Scotland would be better off under a local income tax than they are under the council tax.”—*[Official Report, 4 September 2008; c 10509.]*

Quite simply, that is no longer correct, because the majority of people in the 21 examples that the Scottish Government cherry picked for its website would now be better off under Scottish Conservative plans. When will the First Minister find even some of that £281 million, so that we can make a start in cutting the council tax bills for 2 million Scottish households?

The First Minister: I think that the council tax freeze—something that was never achieved by the Conservative party, which introduced the council tax and then increased it year after year—represents an extremely good start in cutting the bills that families across Scotland face.

In comparing our proposal for the local income tax, and all the fairness and equity that it will bring, with the Conservative proposals, we face one key problem: every time Annabel Goldie tells us what her proposals are, they change. Only a matter of months ago, the change to the council tax that she proposed was to halve the bills of pensioners. Now she has come forward with a different proposal across the range. I repeat that the vast majority of people in Scotland support the abolition of the oppressive tax that was introduced by the Conservative party and increased by the Labour Party, not merely its modification.

The Presiding Officer: I will allow Miss Goldie a very brief final question.

Annabel Goldie: I just want to clarify that my party's commitment to cutting the bills of older pensioners remains, so they would receive a double benefit if the First Minister would kindly even consider the good sense of what I am advising him to do.

The First Minister: So that is in addition to the member's proposal for the £281 million.

I am delighted that Annabel Goldie led her party to support the council tax freeze in the budget that came to Parliament earlier this year. Who knows? With a bit of persuasion, and if the Conservatives carry out some further analysis of their plans, they might be won round to the idea that a fair and equitable tax that is based on income is a better idea than a tax that is based on property and which has little relationship with ability to pay.

Cabinet (Meetings)

3. Tavish Scott (Shetland) (LD): To ask the First Minister what issues will be discussed at the next meeting of the Cabinet. (S3F-986)

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

Tavish Scott: The First Minister's Government has been big on talking about fuel poverty. Following today's announcement, what new investment will he be making to cut the fuel bills of people in Scotland? Does he have a new programme of action to cut fuel bills ready to go?

The First Minister: Yes, we do. We have made extensive preparations for our programme. We have carried out an analysis of the carbon emissions reduction target scheme from its initiation in 2002 until 2005. The figures tend to indicate that there was a 22 per cent shortfall in the Scottish pro rata allocation under the scheme. That is extraordinary, when we consider that fuel poverty in Scotland is three times higher than it is elsewhere in Britain.

We have done two things. First, we have set up the energy advice centres, which are being rolled out across Scotland. They will help to fill the gap in applications under the scheme. Secondly, just this week, we have received an undertaking from the power companies that, as a minimum, Scotland should have a pro rata share of the new CERT scheme. I am sure that Tavish Scott will agree that, whatever the reasons for the scandalous position in the past, our proposals represent substantial progress in attacking fuel poverty in Scotland.

Tavish Scott: Does the First Minister accept that those people who have significant fears about fuel prices are not that interested in arguments between Governments? If Scotland does not get its fair share from the United Kingdom Government, the First Minister will have our support in getting that money. Advice is good, but action is rather better. People know that the First Minister already has real powers at his disposal. He has had plenty of warning of the crisis that people face. What levers will he use this year to

get money into people's pockets? He knows that more people than ever are feeling the pain of high energy costs. For many this winter, the decision will be, "Boiler on or boiler off?" Will the First Minister give a guarantee that he will rise to that challenge and that his action will benefit more families and pensioners than ever before?

The First Minister: The CERT scheme is not implemented by the UK Government. It is financed by the power companies and implemented by the Office of Gas and Electricity Markets. My argument is just a reality. We are taking firm action to close the gap and to ensure that Scotland gets its fair share of energy efficiency investment. I do not know why that is a matter of controversy in the chamber.

Today's initiative is not enough. People need help and support with fuel bills now, as well as energy investment in the future. I have made a number of comments and indications about how that could be done, which I think are in common at least with what I have seen from Liberal Democrat spokesmen south of the border. In the next three years, under the new figures, the UK Government plans to spend £874 million on fuel poverty. The Scottish Government plans to spend £135 million, which is pro rata almost 50 per cent more than what is proposed by the UK Government.

However, I am disturbed by the early indication that, for all the announcements today, there are no Barnett direct consequential of revenue coming into the Scottish Government. I will not make a definitive statement on that until there can be further analysis. The argument seems to be that the warm deal money is merely restoring a cut in the England and Wales scheme that had been administered previously. That is disturbing news. It will be analysed further, and I will report back to members if that turns out to be the case.

On helping families, there are few bills that are not rocketing amid the food and energy bill crisis that we face throughout Scotland. However, people can look at their council tax bills and see some stability in comparison with all their other household expenses, which are going sky-high at present.

Scottish Digital Channel

4. Alasdair Allan (Western Isles) (SNP): To ask the First Minister whether the Scottish Government supports the establishment of a Scottish digital channel alongside the new Gaelic digital channel, as recommended by the Scottish Broadcasting Commission. (S3F-1000)

The First Minister (Alex Salmond): Yes. The Scottish Broadcasting Commission's recommendation for a new public service Scottish digital network is of enormous importance and

represents a major opportunity to develop the broadcasting industry in Scotland. The commission's report and the launch this month of the new Gaelic channel, BBC Alba, mark a significant and exciting time for broadcasting in Scotland. The Scottish Government will respond positively to the report, within our powers to do so, later this year. We look to the United Kingdom Government and the broadcasting authorities themselves to respond in the same constructive spirit to that independent report from the commission, which enjoyed cross-party membership and at least a degree of support.

Alasdair Allan: Will the First Minister join me in giving MG Alba best wishes for its launch next week? On broadcasting more generally, does he believe that network broadcasters need to move quickly to increase their revenue share to 8.6 per cent to allow Scotland to experience the kind of television service to which it is entitled and which most other countries take for granted?

The First Minister: Yes, I do. That is part of the Scottish Broadcasting Commission recommendations. There cannot be a shadow of doubt, given the analysis and the evidence submitted to the commission, that Scotland has been underprovided for in its share of public service broadcasting revenue. The sale of the new digital spectrum—which, it is argued, will raise billions of pounds for the UK Exchequer—is another ready source of revenue that should be allocated to Scottish public service broadcasting.

As far as giving good wishes to the Gaelic channel is concerned, I have recorded mine already. One of the great arguments for having that wonderful new channel is that I am appearing on it on its first day of broadcasting. I am sure that the nation is suitably reassured. As a fluent Gaelic speaker, Alasdair Allan will be delighted to know that I expressed *deagh dhùrachdan*—the Gaelic for best wishes. I am sure that the Gaelic community will join members in saying that everybody loves a trier.

Iain Smith (North East Fife) (LD): Yes, a trier certainly.

There is much in the Scottish Broadcasting Commission's report with which we can all agree. I hope that the First Minister will agree to the holding of an early debate in the chamber on the report, so that we can explore further some of the very good ideas in it—some of which reflect very closely the views that I expressed to the commission when I gave evidence.

A key aspect of the report concerns developing the skills base in Scotland—

The Presiding Officer: Come to a question, please.

Iain Smith: I am just coming on to that—because of the importance of having the skills, if we are to have a Scottish broadcasting channel and if we are to increase the commissioning in Scotland—

The Presiding Officer: Would you come to the question quickly please?

Iain Smith: Does the First Minister agree that there is a need for clarification in the landscape? The commission clearly identifies that there is a lack of clarity as to who has the lead for developing skills in the broadcasting industry in Scotland in terms of economic development. Will the Government act quickly to—

The Presiding Officer: No, you must stop now Mr Smith.

The First Minister: Skills and opportunities will be crucial to the future of broadcasting.

As Iain Smith has asked a question, I would like to take the opportunity to say a word of appreciation about the late Ray Michie, who served on the Scottish Broadcasting Commission despite her full knowledge of the severity of her illness. She believed passionately in many of the issues that the commission was putting forward, and she was determined to serve. I deeply appreciate that. I know that the whole chamber will want to take this opportunity to send our best wishes to Ray's family. Ray was a wonderful Scot and a passionate supporter of the Gaelic language. *[Applause.]*

The Presiding Officer: I say to the whole chamber that I am always keen to take supplementary questions, but they really must be brief.

Ted Brocklebank (Mid Scotland and Fife) (Con): Will the First Minister tell us whether he agrees with the commission's recommendation that the proposed new Scottish digital channel should be funded on a not-for-profit basis, or does he see a role for the private sector, perhaps including local commercial television companies?

The First Minister: The essence of the channel should that of a public service broadcasting operation, and that should be the essence of the funding. I have already pointed out the lack of return from the licence fee that viewers in Scotland receive in terms of our broadcasting contribution.

Ted Brocklebank has knowledge of these matters, and I am sure that he would agree that the sale of the digital spectrum is an entirely appropriate identified source of revenue. The channel may choose to earn additional revenue, in the same way that BBC World and a number of other BBC services do at the moment, and I see no great objection to that. However, the channel

should be at the core of public service broadcasting in Scotland.

David Whitton (Strathkelvin and Bearsden) (Lab): Does the First Minister agree with paragraph 51 of the executive summary of the Scottish Broadcasting Commission's excellent report? It says:

"We do not believe, at the present time, that broadcasting should be devolved."

Does the First Minister, like me, welcome calls for more accountability through the controller of BBC Scotland being made a member of the BBC executive board, and through Scottish representation on the main board of Ofcom?

The First Minister: I agree with the very next paragraph of the report, which sets out a range of powers that should be devolved from the Scotland Office to this Government and this Parliament. With the imminent demise of the Scotland Office, that becomes very urgent indeed.

The key part of David Whitton's quote is "at the present time". I welcome his acknowledgement of the report, which I hope is made on behalf of the whole Labour Party, as it contrasts markedly with the tone of the evidence that people in the Scotland Office submitted to the commission. The commission was established precisely to generate a consensus, and the people who went on to the commission did so with that in mind—so that we could make an immediate advance for broadcasting and culture in Scotland, as well as having this party and this Government's aim of having the normal powers of a normal country.

Creative Scotland

5. Malcolm Chisholm (Edinburgh North and Leith) (Lab): To ask the First Minister what opportunity the Parliament will have to influence the remit and funding of creative Scotland. (S3F-993)

The First Minister (Alex Salmond): In June, Parliament unanimously supported the principle and functions of creative Scotland. Parliament and its committees will get another opportunity to consider both the costs of setting up the new organisation and the funding available to it to support arts and culture as part of the proper scrutiny of the public services reform bill.

Malcolm Chisholm: Does the First Minister accept that Parliament supports the establishment of creative Scotland but has legitimate questions about its funding and remit? Why, therefore, have he and the minister for culture refused to answer such legitimate questions over the past two weeks, and why are they postponing parliamentary decisions until an indefinite time next year, after the establishment of creative

Scotland in April? As the First Minister will no doubt blame us for voting down the financial memorandum—[*Interruption.*]

The Presiding Officer: Order.

Malcolm Chisholm:—I remind him that, if he had followed the advice that we gave him at decision time on 18 June, he could have reintroduced the Creative Scotland Bill right now.

The First Minister: As I recollect, there was a lot of conflicting advice from the Labour Party. What Malcolm Chisholm says is a bit rich, given that the chaos and confusion and the destructive behaviour of Labour Party members—admittedly, at the end of term, when they were looking forward to their holidays—were entirely responsible for the delay in setting up an organisation that could carry unanimous, cross-party support in Scotland.

Alcohol (Off-sales)

6. Ross Finnie (West of Scotland) (LD): To ask the First Minister whether the Scottish Government remains committed to its proposal to ban under-21-year-olds from purchasing alcohol in off-sales. (S3F-1005)

The First Minister (Alex Salmond): Our consultation paper "Changing Scotland's relationship with alcohol: a discussion paper on our strategic approach" makes clear that we consider that there is a case to be made for raising the minimum age for purchasing alcohol to 21 for off-sales as part of a package of measures to tackle alcohol abuse. We have invited views on that and on our other proposals, and we will consider those further in light of the consultation, which closed on 9 September.

Ross Finnie: The First Minister will be aware that the Government referred this week to the experiment that was carried out in Larbert and Stenhousemuir, which revealed reductions in crime rates. Based on that evidence, the Government has reached the conclusion that 18 to 21-year-olds are the cause of the problem and must therefore be banned permanently from off-sales premises. However, for that conclusion to stand up to scrutiny, can the First Minister confirm that, in the corresponding period, 40 per cent of antisocial behaviour offences were committed by 18 to 21-year-olds, as well as 40 per cent of breaches of the peace, 30 per cent of minor assaults and 60 per cent of serious assaults? Because—

The Presiding Officer: Briefly, please.

Ross Finnie: If the First Minister is unable to confirm that position, it is fallacious for him to assert that barring 18 to 21-year-olds will result in an equivalent reduction in crime rates.

The First Minister: The problem with Ross Finnie's percentages is that he seems to forget the substantial decline in antisocial behaviour in police reports that occurred not only in the Stenhousemuir experiment but across all three areas—Armadale, Stenhousemuir and Cupar. In Stenhousemuir, calls to the police about antisocial behaviour were down—and here is a percentage—40 per cent on the previous year, from 113 to 67. That happened with no additional police resource in the area.

All that I say to Ross Finnie, other Liberal Democrat members and anyone else who wants to dismiss the proposal out of hand is that, before we do that, we should talk about the evidence that we are getting from the areas where this has been tried. If the evidence shows a substantial decline in police recording across a range of areas, surely there is a powerful argument for giving support to the proposals in the Government's document.

Alex Neil (Central Scotland) (SNP): Does the First Minister agree that, in looking at the policy, a proper balance should be struck between the rights of under-21-year-olds and the rights of people who have suffered in the past from antisocial behaviour and who have benefited from the reduction in antisocial behaviour in their area? *[Interruption.]*

The Presiding Officer: Order.

The First Minister: It is our duty—one that we take seriously in other areas—to offer protection and support to young people in Scotland.

It is well known that one phenomenon that lies behind increased public disorder in Scotland, particularly at the weekend, is the availability of very cheap and, in some cases, very strong alcohol. People are not drinking and celebrating when they go out for an evening; they are going out for an evening already having drunk a substantial amount of alcohol. Every member who is in touch with the grass roots in their constituency should know that full well.

In three areas—Stenhousemuir, Armadale and Cupar—with the full support of off-licences, an experiment was introduced to see whether the restriction in sales caused by banning under-21s from buying alcohol in off-licences would have a considerable effect. Whatever the arguments, those three areas have seen an observable and significant decline in the number of incidents reported to the police, and the constabulary has verified that. If that evidence stands up to examination, is anyone in the chamber saying that it should be disregarded or that it should not be taken into account? Incidentally, the victims of antisocial behaviour are often young people themselves, who are most at risk from such antisocial behaviour.

Pauline McNeill (Glasgow Kelvin) (Lab): Does the First Minister agree that, rather than targeting one age group, which would send the wrong message on tackling alcohol misuse, given that we know that people from a broad range of ages misuse alcohol, the right message would be to target licence holders who sell to underage drinkers and ensure that, after three breaches of their licence, they lose their licence for good?

The First Minister: If a licence holder does it once, they can lose their licence. The Labour Party presided over a doubling of alcohol consumption per person in Scotland during the past generation, with all the impacts that that has had for public health and disorder, so it is a bit rich for Labour to say that it wants to take action but then find some reason to disagree with every single one of the courageous proposals in Kenny MacAskill's consultation document. People who want to see Scotland genuinely face up to its difficulties with alcohol will look askance at politicians who say that they want to do something but always find a reason for not supporting proposals to do that.

12:32

Meeting suspended until 14:15.

14:15

On resuming—

Question Time

SCOTTISH EXECUTIVE

Finance and Sustainable Growth

West Dunbartonshire Council (Schools Capital Funding)

1. Jackie Baillie (Dumbarton) (Lab): To ask the Scottish Executive what capital funding mechanism, apart from the existing schools regeneration project, will be available to West Dunbartonshire Council for schools over the next three years. (S3O-4078)

The Cabinet Secretary for Finance and Sustainable Growth (John Swinney): West Dunbartonshire Council will be aware of all the various funding routes for major capital projects. They include direct capital allocations—both grant and supported borrowing—in the local government settlement and opportunities for prudential borrowing. We are providing local authorities with almost £3 billion of capital resources over three years, which is an increase of £115 million this year and in each of the next two years, to secure investment in schools and other infrastructure, according to authorities' own priorities.

My announcement yesterday on the establishment of the Scottish Futures Trust shows our commitment to pursue best value for public money in Scotland, rather than continuing with the expensive private finance initiative and other practices of the previous Administration.

Jackie Baillie: The minister will recall the First Minister's commitment to match Labour's school building programme "brick for brick". Let me share with the minister yesterday's response from Maureen Watt to my parliamentary question, in which she spoke about the £115 million extra capital this year and for the next two years. When that is divided by 32 local authorities, it comes to roughly £3.5 million each. A new Dumbarton academy—which has not been taken forward by the Scottish National Party—will cost at least £25 million.

I have two simple questions. Where will we get the money from, and when will we get it? It certainly does not look as if it will come soon from the Scottish Futures Trust.

John Swinney: I would have thought that Jackie Baillie would have taken a different tack today, rather than adopting the failed tactics that the Labour Party used yesterday. I persist in living

in hope of the Labour Party changing direction towards a more positive route.

As I said in my original answer to Jackie Baillie, the Government is making significant resources available to local authorities, with a very substantial first-year increase in the spending review for capital allocations, which will be replicated in the next two years. As I set out yesterday, I am keen to ensure maximum participation in the work of the Scottish Futures Trust, and I look forward to West Dunbartonshire Council playing its part in that exercise, as I am sure that it will.

Des McNulty (Clydebank and Milngavie) (Lab): We get a different story from Mr Iain Robertson, the SNP leader of West Dunbartonshire Council. Mr Robertson says that there is no money and no prospect of getting any money. Should I refer him to the Cabinet Secretary for Finance and Sustainable Growth, or should I refer him and others who wish investment to be made in education in my and Ms Baillie's constituencies to Sir Angus Grossart?

John Swinney: I suspect that having a constructive discussion with both would help—one that is based on evidence. Sadly, evidence was missing from Mr McNulty's contribution to Radio Scotland's news programme this morning, in which he asserted that not-for-profit vehicles do not work. That was a strange proposition, given the construction work that is proceeding under the non-profit-distributing model in schools in Falkirk, to name just one local authority area. I suggest that Mr McNulty and Jackie Baillie play a constructive role in the discussion on the Scottish Futures Trust. I would be happy to discuss the matter with them at any time.

Economic Strategy

2. Elizabeth Smith (Mid Scotland and Fife) (Con): To ask the Scottish Executive what assessment it has made of the merits of its economic strategy in relation to the Council of Economic Advisers' recommendations on education, skills and lifelong learning. (S3O-4121)

The Cabinet Secretary for Finance and Sustainable Growth (John Swinney): The Government's economic strategy is focused on realising Scotland's huge economic potential. The Council of Economic Advisers commented on the strategy at an early stage and recognises the key role that education, educational institutions, skills and lifelong learning will play in meeting the targets in the strategy, including our overarching purpose of sustainable economic growth. The council made a number of initial recommendations to the Scottish Government at its third meeting on 13 June, and it sets out its recommendations in full

in its annual report, which is due to be published by the end of this year.

Elizabeth Smith: The Council of Economic Advisers referred to the need to ensure that students regard education as a personal investment and to the importance of closer links between universities and the business sector. Therefore, does the cabinet secretary agree that it would have been sensible for the Cabinet Secretary for Education and Lifelong Learning to have allowed the business sector to be represented on the Government task force that is reviewing the future of our universities?

John Swinney: I reassure Elizabeth Smith that the Government is closely involved in discussion with the business community about the skills needs of the Scottish economy and the business community in particular. On Monday, the Cabinet Secretary for Education and Lifelong Learning and I chaired one of the regular forums of the economic organisations that are involved in planning our contribution to the economic strategy, which include Scottish Enterprise, Highlands and Islands Enterprise, Skills Development Scotland, the Scottish Further and Higher Education Funding Council and VisitScotland. We try to ensure that all our policy interventions, particularly those of the funding council and Skills Development Scotland, are closely aligned to the needs of the business community.

The discussion was fruitful and I assure Elizabeth Smith that we benefited from the significant amount of work that Mr Mather in particular has undertaken in engaging directly with the business sector, so that the Government is fully informed about the skills and education requirements of the business community, to which we attach the highest priority.

Iain Gray (East Lothian) (Lab): The Council of Economic Advisers also recommended the commissioning of an independent assessment of the relative costs of different electricity generating technologies, including nuclear. When will the Scottish Government commission that assessment and who will carry it out?

John Swinney: The work will be taken forward by the Scottish Government in consultation with the Council of Economic Advisers. How the work will be developed is currently a matter of internal consideration. Of course, as with all matters that relate to the Council of Economic Advisers, we will keep the Parliament informed of developments in relation to that recommendation.

Ferry Service (Campbeltown to Ayrshire)

3. Jamie McGrigor (Highlands and Islands) (Con): To ask the Scottish Executive, in light of the threat of closure of the Vestas factory at

Campbeltown and local concerns about the delay in re-establishing the Campbeltown to Ballycastle ferry service, whether it will support the establishment of a new ferry route between Campbeltown and mainland Ayrshire. (S3O-4114)

The Minister for Transport, Infrastructure and Climate Change (Stewart Stevenson): Consultants who were commissioned by the Scottish Government and the Northern Ireland Executive are currently undertaking a Scottish transport appraisal guidance appraisal of the proposed Campbeltown to Ballycastle ferry service. It is anticipated that the completed STAG appraisal will be delivered shortly. When the final report becomes available, ministers in Scotland and Northern Ireland will consider the costs and benefits that are associated with the proposed service and will reach a decision about the way forward.

We expect the STAG appraisal to consider all the possible service options and to include an analysis of the option of extending the service to Ayrshire. None of the earlier analyses considered that matter in any detail. The assessment of the Ayrshire leg is necessary if we are to consider whether such an extension of the service would add value to the proposed Campbeltown to Ballycastle ferry service.

Jamie McGrigor: Will the minister acknowledge that even without the loss of jobs at Vestas the Kintyre and Campbeltown economy is under severe pressure and desperately needs new investment? Will he also acknowledge that although we all want the Campbeltown to Ballycastle ferry service to resume as soon as possible, a ferry service from Campbeltown to mainland Ayrshire would mean that businesses and potential new businesses in Campbeltown could get their goods to major new markets, which would be crucial? Will he ask his officials to consider the option seriously?

Stewart Stevenson: We place the highest value on ensuring that Kintyre has the economic opportunities that it requires. That is why we are considering the Campbeltown to Ballycastle route and why we included in that consideration the option of the extension of the service to Ayrshire. That is an entirely new proposal, which the Government has not considered before. We certainly take the prospect seriously, and I hope to have something more concrete to say on the matter in the not-too-distant future.

Kenneth Gibson (Cunninghame North) (SNP): Will Ardrossan, a port in my constituency that has excellent rail links, be considered as the Ayrshire port of first choice, should additional ferry services to Ireland or Kintyre be introduced?

Stewart Stevenson: Mr Gibson is right to represent his constituency's interests, as we all do in our contributions. Ardrossan will of course be considered. Until I have received and analysed the STAG report, I cannot make the commitment for which he asks, but Ardrossan will certainly be seriously considered.

Lewis Macdonald (Aberdeen Central) (Lab): Does the minister recall that previous assessments of the viability of ferry routes to and from Campbeltown took into account the advantages of the Vestas manufacturing facility there and the prospects for passenger and commercial traffic that arose from that? What assessment has he made of the potential impact on the STAG assessment of routes of the closure of the Vestas factory? What indication has Vestas given of the importance of those routes to the decision-making process in which it is involved?

Stewart Stevenson: It is clear that events in Campbeltown will affect consideration of the STAG appraisal. If the Vestas factory is to close, that reinforces the case for our considering every opportunity that we can find to create an economic future for Campbeltown and the Mull of Kintyre. I assure the member that that is our priority.

John Scott (Ayr) (Con): When will the STAG report be published? Given what the First Minister said on the subject when he met Northern Ireland's First Minister, does the Government support in principle the extension of the route to Ayrshire?

Stewart Stevenson: John Scott is correct to refer to discussions between Northern Ireland's First Minister and Deputy First Minister and our First Minister and me some months ago. We must work with administrations on the other side of the channel. We must talk to local authorities, such as Moyle District Council in Northern Ireland, which is engaged in the issue. All the relevant parties are engaged. Serious consideration is also being given to a potential link between Campbeltown and Ayrshire.

Credit Unions

4. Hugh O'Donnell (Central Scotland) (LD): To ask the Scottish Executive how it supports individual credit unions and regional networks of such unions. (S3O-4168)

The Minister for Enterprise, Energy and Tourism (Jim Mather): Credit unions are key organisations that help to combat financial exclusion. Consequently, our fairer Scotland fund underpins local authority support for credit unions. In addition, the Scottish investment fund has offered a new means of support from 1 September for credit unions that are prepared to make a transformational step change in their activity.

Hugh O'Donnell: Several credit unions in South Lanarkshire have expressed concern about their limited access to the fairer Scotland fund. The information that I have received suggests that some regulations exclude them from drawing down money from that fund.

I understand that some credit unions might face serious difficulty because people might use the new regulations on low-income, low-asset debtors to avoid paying debts to credit unions. Will the minister look into that?

Jim Mather: The issue should be considered in the wider context. In addition to the fairer Scotland fund, we have established the Scottish investment fund and the third-sector enterprise fund, which is the most likely source of funding for credit unions that intend to become more socially enterprising.

On the wider point about new regulations, I would welcome a meeting with the credit unions as an industry sector so that they can have a dialogue with us, and I would welcome Hugh O'Donnell's presence at such a meeting. That would give us more clarity about how credit unions might move forward and fit into the wider scope of the funding, the new approach and the general thrust that we want our credit unions to be all that they can be.

Dave Thompson (Highlands and Islands) (SNP): Does the minister have information on the number of councils, health boards and other public bodies that have helped to establish staff credit unions to benefit employees and their families? Will he encourage such bodies to establish credit unions?

Jim Mather: In preparing to answer question 4, I found that Scotland has 115 credit unions, of which 13 were established by councils and other public bodies. However, the bald fact is that it is up to the employers whether they wish to set up a credit union and encourage staff members to join it. Clear benefits are associated with workplace credit unions, such as the deduction of monthly savings at source. However, there is nearly full coverage in Scotland of existing credit unions. That complements any new initiative that might take place in the workplace.

HM Treasury (Funding Mechanisms)

5. Bill Kidd (Glasgow) (SNP): To ask the Scottish Government what recent discussions the Cabinet Secretary for Finance and Sustainable Growth has had with HM Treasury about funding mechanisms. (S3O-4140)

The Cabinet Secretary for Finance and Sustainable Growth (John Swinney): I have made representations to the Treasury on a number of funding matters recently, including police and fire pensions, the fossil fuel levy, further

access to end-year flexibility balances, council tax benefit and local income tax.

The Government has made clear its concern over the stance that has been taken by the Treasury on a number of those matters. I will continue to press for Scotland's rightful entitlement to funding although, ultimately, I believe that we must move to a position where Scotland is responsible for all spending and revenue.

Bill Kidd: Given the recent dispute over the funding mechanism for police and fire service pensions, which the cabinet secretary mentioned and which has prompted Joe Grant, the general secretary of the Scottish Police Federation, to state that the Treasury should be providing funds to meet those costs, can the cabinet secretary confirm that the previous Scottish Administration knew of the pension situation in England since 2006 but disgracefully failed to ensure equity for Scottish emergency services staff by acting for them?

John Swinney: There are two elements to the police pensions issue that we have to deal with. The first is the change to the commutations factors that influence the calculation of police pensions, and the second is the increase in the level of police pensions expenditure as a consequence of the fact that more officers than we would normally expect are scheduled to retire over the current financial year and the next two financial years.

The Scottish Government has taken the view that we must ensure that the commutation factors are paid, and paid promptly, because they affect the pensions payments that are made to retiring police officers with effect from 1 October. We have committed to pay that resource, despite the fact that HM Treasury provided those resources in relation to police forces in England and Wales.

The issue is, of course, tied up with the fact that police pensions are dealt with not on a national basis but on a local basis in Scotland. Certainly, the debate about whether to draw all those pension provisions together into one fund is an issue that has been kicking around for 10 years. No Administration has tackled the issue before, but this Government is engaged in positive discussions with our local authorities on how to address it.

Elaine Murray (Dumfries) (Lab): On the issue of funding mechanisms, has the Scottish Government had discussions with the United Kingdom Treasury, Partnerships UK or any other agency regarding revenue support for public sector borrowing under the Scottish Futures Trust? Local authorities are concerned that the existing 80 per cent revenue support for public-private partnership projects will not be replicated under the new system.

John Swinney: That issue will be a material part of the discussions that the Cabinet Secretary for Education and Lifelong Learning has with local authorities, as I set out in my statement to Parliament yesterday. Of course, the cabinet secretary will bear in mind the points that have been made by Elaine Murray.

Rosyth to Zeebrugge Ferry Service

6. John Park (Mid Scotland and Fife) (Lab): To ask the Scottish Executive what progress there has been towards a replacement Rosyth to Zeebrugge ferry service. (S3O-4160)

The Minister for Transport, Infrastructure and Climate Change (Stewart Stevenson): The Scottish Government is working very closely with Forth Ports to identify an alternative commercial operator for the Rosyth to Zeebrugge route. We will continue to do everything possible to secure a successful outcome.

Constructive discussions are on-going with potential operators, and the Scottish Government is continuing to do everything possible to secure a swift and successful outcome.

John Park: I thank the minister for staying in touch over the summer on this issue, on a cross-party basis. As he knows, the issue is close to the hearts of many members.

It seems that there will be a break in service, which is an unfortunate situation as logistics companies have made long-term plans about where they will travel in Europe and the United Kingdom. Will the minister confirm that the Scottish Government is having discussions with Forth Ports about a plan for getting those logistics companies to come back if we are fortunate enough to get a new service at some point in the future?

Stewart Stevenson: I welcome the constructive engagement from John Park and other members on the issue. It is helpful for us to work together and share confidences with one another on progress. I share John Park's serious disappointment at the relatively short notice that we were given on 28 May of Attica's intention to withdraw the service, which has created substantial difficulties. In my remarks at the time, I reflected on the fact that delivering the service without a break would be a substantial challenge.

We have been working with the Zeebrugge port authorities, and we have been in communication with the Flanders Government. All parties share an interest in ensuring that we deliver a new Rosyth to Zeebrugge service. We will continue to make every effort to do so, and I will continue to engage with members to ensure that they know what is happening and are able to make constructive suggestions, privately or otherwise.

Jim Tolson (Dunfermline West) (LD): In light of the minister's answer, is the Scottish Government prepared to commit to improvements in the ferry infrastructure at Rosyth port if the announcement about a new operator is positive?

Stewart Stevenson: As I said, commercial negotiations continue. We understand that the ferry infrastructure at Rosyth—in which the previous Administration made a substantial investment of in excess of £11 million—is fit for purpose.

At Zeebrugge, which is another part of the equation, there have been moves to ensure that the infrastructure at that end is also appropriate, so that potential operators can more safely guarantee turnaround times. The actors involved are all fully engaged in making the contributions that we expect. I will certainly continue to engage in the matter, because I share members' enthusiasm for ensuring that we have a service.

Economic Situation

7. Jim Hume (South of Scotland) (LD): To ask the Scottish Executive what it is doing to alleviate financial difficulties faced by Scots as a result of the current economic situation. (S3O-4164)

The Cabinet Secretary for Finance and Sustainable Growth (John Swinney): As the Deputy First Minister made clear in the chamber last week, the Government has taken early and decisive action to help every business and household in the country that is feeling pressure from rising food and energy costs.

The package of measures that we have announced includes bringing forward up to £100 million of affordable housing investment and up to £385 million of Scotland's remaining European structural funds allocation, and bringing together the major mortgage lenders to examine the scope for easing the supply of credit to Scottish households and businesses. In combining that package with the decisions that the Government took—which Parliament supported—in my budget earlier this year, we have acted to alleviate the concerns and the circumstances of individuals, families and businesses.

Jim Hume: At the weekend, 4in of rain fell in the Bowmont valley in one hour, washing away bridges, roads, telecommunications and power lines, and isolating communities. Work has already started on repairs, and the Minister for Environment paid a brief visit this morning.

Food, fertiliser and fuel prices have already made farming difficult in the area, and the local economy will be devastated further as farmers cannot take stock down from the hills to market or bring in essential winter supplies. Will the Cabinet Secretary for Finance and Sustainable Growth

work to ensure that the Government will apply the Belwin formula to help the community get back to normal and replace its bridges, roads and infrastructure, which are all vital to the local economy?

John Swinney: Mr Hume will be aware that the Belwin formula requires a certain range of tests to be satisfied before it can be enacted. I am certain that if such circumstances have arisen in relation to the incident to which he refers, Scottish Borders Council will be in touch with the Government. I am glad to hear that the Minister for Environment was able to visit and see the circumstances for himself.

The Government is concerned about the impact of rising fuel prices, which are a significant driver in the agricultural economy, as I am aware from my constituency experience. We will certainly continue our efforts to encourage the United Kingdom Government to take decisive action to reduce the cost of fuel, which affects so many sectors of our economy.

Ian McKee (Lothians) (SNP): In view of the fact that many of the financial difficulties that all Scots are facing result from rising fuel costs, which have made the cost of fuel in some areas of Scotland the highest in the world, will the cabinet secretary make a further approach to the Chancellor of the Exchequer and ask him to initiate in the near future a fuel tax regulator scheme to reduce fuel prices?

John Swinney: I assure Mr McKee that those representations will be made to the United Kingdom Government. I wrote to the chancellor some weeks ago about the matter, and that was not the first time that I had done so. I hope that, in his pre-budget report or in any other interventions that the United Kingdom Government makes, he will take action to apply a fuel tax regulator scheme. I assure the member of the consistency of the Scottish Government's representations on the matter.

Enterprise Network (Local Outcomes)

8. Willie Coffey (Kilmarnock and Loudoun) (SNP): To ask the Scottish Executive what steps it is taking to improve the recording and reporting at a local level of outcomes achieved by the restructured enterprise network. (S3O-4131)

The Minister for Enterprise, Energy and Tourism (Jim Mather): The Scottish Government is working with Scottish Enterprise and Highlands and Islands Enterprise to develop a performance measurement and evaluation framework that is focused on national outcomes as set out in the Government's economic strategy. At a local level, as members of community planning partnerships, Scottish Enterprise and HIE will contribute to the

outcomes that are set out in each local authority's single outcome agreement.

Willie Coffey: I thank the minister for his answer, but can he give me a further assurance that all levels of the restructured enterprise network will be able to demonstrate and report on how they are helping to deliver a wealthier and fairer Kilmarnock and Loudoun, for example?

Jim Mather: I am delighted to do that. The commitment is material. Scottish Enterprise is maintaining its Kilmarnock office. I was there on 27 August with the community planning partnership, with which Scottish Enterprise is thoroughly engaged. I sat through a session that lasted about two and a half hours, during which we identified the key measures that the community planning partnership wants to monitor. They include the number of people in work, average wages, the number of business start-ups, the net number of active businesses and so on. We made a constructive start to the process. The single outcome agreement in East Ayrshire will deliver not only shared outcomes but a new, shared sense of purpose.

Glasgow Airport

9. Gil Paterson (West of Scotland) (SNP): To ask the Scottish Government what discussions it has had with local authorities about the impact of the proposed sale of Glasgow airport by BAA. (S3O-4147)

The Minister for Transport, Infrastructure and Climate Change (Stewart Stevenson): We have had no discussions with local authorities on the Competition Commission's market investigation of BAA or any potential sale of Glasgow international airport.

Gil Paterson: The minister will be aware that Glasgow airport is self-regulated by BAA, which has an impact on the local authorities that surround the airport. Does the Scottish Government have any plans to discuss with the United Kingdom Government the prospect of Glasgow airport being regulated by a Government authority, as the London airports are? At present, it is run by a private company that regulates itself.

Stewart Stevenson: The member raises an interesting point. Airports are an important part of our transport infrastructure and contribute greatly to our economic success. However, the regulations that govern the operation of the London airports are restricted to controlling the charges at those airports. The challenge for the Scottish airports at present is more to invest in our airports to ensure that they are fit for purpose. I look forward to seeing the responses of BAA and the Competition Commission to the present inquiries. I wish to see that they will ensure that we

get proper and adequate investment in Scotland's airports.

Sustainable Procurement

10. Bill Wilson (West of Scotland) (SNP): To ask the Scottish Government what steps it is taking to promote sustainable procurement, following publication of its joint report with Quality Meat Scotland, "Buying Red Meat: Putting into practice the Scottish Government's public procurement and sustainable development strategy". (S3O-4152)

The Cabinet Secretary for Finance and Sustainable Growth (John Swinney): The document that was issued by Quality Meat Scotland builds on guidance that previously was issued to the public sector on how to incorporate sustainability into the public procurement of food and catering services. That guidance is currently being updated and will be reissued.

On 19 June, the Cabinet Secretary for Rural Affairs and the Environment announced how the Government will take forward the development of the national food and drink policy. That work includes the establishment of a working group that will look at ways in which public sector food procurement can contribute to Scotland's public sector becoming an exemplar of sustainable economic growth in Scotland.

Bill Wilson: Does the cabinet secretary share the opinion that, in light of the variable implementation of the QMS and Government sustainable sourcing guidelines by national health service boards—as revealed by the responses to letters that I recently sent them—it would be a good idea if NHS boards shared best practice? They could learn from proactive boards such as Tayside NHS Board, which is implementing a sustainable procurement action plan that includes carbon production, the supply chain and how to help local small and medium-sized enterprises into the public sector procurement market.

John Swinney: I am delighted to hear that Tayside NHS Board is an exemplar in supplying local produce to its patients. That will more than likely be welcome news to the farmers in the hill areas of Angus and Perthshire that I represent. I very much agree with the sentiments behind Bill Wilson's question. There is a great opportunity for us creatively and inventively to guarantee that the excellent produce that is supplied by Scotland's agricultural community is made available to all sectors of Scottish society. The public sector has a significant role to play in that process.

Aberdeen City Council (Budget)

11. Richard Baker (North East Scotland) (Lab): To ask the Scottish Executive what

discussions it has had with Aberdeen City Council about the council's current budget plans. (S3O-4079)

The Cabinet Secretary for Finance and Sustainable Growth (John Swinney): I have had a number of discussions with Aberdeen City Council about its current budget plans. Decisions on those budget plans are, of course, for the council.

Richard Baker: Does the cabinet secretary recognise the concern in Aberdeen about the lack of transparency in the council's budget process? The administration maintains that £50 million of cuts were agreed under the most recent budget, whereas everyone else—including the cabinet secretary, according to his written answer to me in July—understood that the amount was £27 million. Does he agree that there must be full transparency on Aberdeen City Council's budget if the council is to be helped by other relevant parties to address its serious financial problems?

John Swinney: It is pretty clear that Aberdeen City Council has significant financial difficulties. Those are being addressed, and the Government has been involved in requiring the council to put its funds in order. I am glad to see that progress is being made with the appointment of an interim chief executive, whom I met the other day. I think that the council is focused on addressing the significant financial situation that it faces. I am glad that the council has engaged fully in addressing the issues that the Accounts Commission raised. The Government will, of course, be happy to take forward further discussions with the local authority.

Mike Rumbles (West Aberdeenshire and Kincardine) (LD): Does the minister recognise that he has given Aberdeen City Council the lowest level of financial support per head of population in the country? Does he agree that there should be a level—perhaps 90 per cent—below which no council in Scotland should fall?

John Swinney: That would have a significant impact on the distribution formula for local authority funding. I have made it clear that I am considering the distribution formula in consultation with our local authority partners. The suggestion that Mr Rumbles has made could be considered. However, I point out to him that the methodology that was applied for distributing resources to local authorities for the period 2008 to 2011 was exactly the same as the one that we inherited from the previous Administration, of which Mr Rumbles was an enthusiastic supporter.

Brian Adam (Aberdeen North) (SNP): Can the cabinet secretary spell out a little more what progress has been made on addressing the financial difficulties of Aberdeen City Council? Can

he confirm that the financial formula for distributing funds is indeed under serious review?

John Swinney: Aberdeen City Council is very much engaged with the challenge of addressing its budget difficulties. I discussed the issue in some detail with the interim chief executive earlier this week. Let me also put it on record that I welcome the appointment of the new chief executive, Sue Bruce from East Dunbartonshire Council, who will take up office later this year.

The council is focused on stabilising its financial position and on ensuring that it is sufficiently organised to deliver high-quality services to the people of Aberdeen. Those are big challenges for the council. The Government has provided, through the advisory network that we have made available to the local authority, a significant amount of support to help it in that process.

As I indicated to Mr Rumbles, the distribution formula is under review.

Local Income Tax (Students)

12. Murdo Fraser (Mid Scotland and Fife) (Con): To ask the Scottish Executive how many students will be liable to pay local income tax. (S3O-4124)

The Cabinet Secretary for Finance and Sustainable Growth (John Swinney): We are currently considering the responses to the consultation exercise, including representations made by student bodies. It would be premature to anticipate the outcome of that consideration. A further announcement about the detail of the Government's plans will be made in due course.

Murdo Fraser: I guarantee that, however many it is, it will be more than are currently paying council tax. The Government broke its promise to write off student debt, it wants to turn students into criminals for buying a bottle of wine or a few cans of beer to drink in their hall of residence, and now it intends to clobber them with the unfair, unworkable and discredited local income tax. Why does the Government hate students so much?

John Swinney: Oh, Mr Fraser has excelled himself in expressing his terribly depressing view of the world. I am surprised at that.

Mr Fraser should not go around saying things such as the application of the local income tax will guarantee that more students will pay it than pay the council tax. He should not go around making such rash promises to the people of this country. I encourage him to engage in the discussions about the local income tax that I will be holding later today with my Liberal Democrat colleagues, as members might have noticed, to advance the development of a proposition that could liberate

Scotland from the oppressive council tax that is so hated by members of the public.

Efficiency Savings

13. Derek Brownlee (South of Scotland) (Con): To ask the Scottish Executive what impact the higher than expected level of inflation is having on the Scottish Government's efficiency savings target. (S3O-4116)

The Cabinet Secretary for Finance and Sustainable Growth (John Swinney): Changes to the level of inflation will have no impact on the Government's efficiency savings target. Our published guidance makes it clear that inflation should not be considered when calculating either the baseline or the efficiency saving.

Derek Brownlee: We all appreciate that higher than expected inflation will make it rather more difficult than anticipated to reach the target. Will the cabinet secretary assure us that the efficiency targets that are set out in the Government's efficiency savings programme, and those on which it would rely for local income tax, will be delivered?

John Swinney: Mr Brownlee, quite uncharacteristically, is falling into the rather depressing view of the world to which Mr Fraser has just treated us. I assure Mr Brownlee that the Government remains focused on delivering its efficiency savings targets, as he would expect us to be.

Renewable Energy Planning Applications (Objections)

14. Alex Neil (Central Scotland) (SNP): To ask the Scottish Executive how many renewable energy projects have been the subject of an objection to the relevant planning application by Scottish Natural Heritage in each of the last three years. (S3O-4146)

The Minister for Enterprise, Energy and Tourism (Jim Mather): During the past three years, SNH has commented on 1,504 renewables projects and had no objection to 89 per cent of them, which is 1,345 renewables projects. SNH had an outright objection to 74 cases. It also delivered a conditioned objection in a further 85 cases where it considered that any adverse impacts on the natural environment could be reduced to an acceptable level through conditions.

Of the 1,504 renewables projects applications, the Scottish Government received 35 under section 36 of the Electricity Act 1989, that is, major applications for developments of greater than 50MW or of greater than 1MW for water-driven generating stations. SNH is responsible under statute for advising on proposed developments' likely impacts on the environment. Of the applications under the Electricity Act 1989, SNH

had no objection to eight projects and it withdrew its initial objections on a further nine projects following the developer revising or providing further information. Four applications are still within the initial consultation period and we are awaiting views. SNH has maintained objections to the remaining 14 developments.

Alex Neil: I draw the minister's attention to the Bankend Rig wind farm project in South Lanarkshire, where SNH has taken up to two years to respond one way or the other. Will ministers seriously consider placing a deadline on SNH for turning around decisions on such matters, so that it can join the rest of the Government machine in promoting renewable energy rather than acting as a hindrance?

Jim Mather: The key point is that, increasingly, SNH and other statutory consultees are aligned with increasing sustainable growth. SNH clearly supports energy efficiency and a mix of energy sources, and it is working with us and with councils on Scottish planning policy 6 and locational guidance.

I understand that the objection to the Bankend Rig wind farm application was on ornithological grounds and that the application did not include the information that is required by SNH to enable it to assess the proposal fully. However, I am told that SNH has been in regular discussion with the applicant, who will submit additional supporting information. We understand that the applicant is near to submitting that information, at which point SNH will reconsider the application.

Scottish Prisons Commission

The Presiding Officer (Alex Fergusson): The next item of business is a debate on the report of the Scottish Prisons Commission. I call the Cabinet Secretary for Justice, Kenny MacAskill, to open the debate.

14:56

The Cabinet Secretary for Justice (Kenny MacAskill): As a nation, Scotland imprisons a particularly high proportion of our people by international standards. What is more, a third of all offenders coming into prison have alcohol problems, more than half have drugs problems and many have mental health problems. Imprisonment in Scotland has increased steadily over the past 10 years, and today's figures are at an all time high; yet, the paradox is that crime rates are falling. How can that be?

We inherited an unfit prison estate. The Scottish Government is supporting huge investment in the prison estate with a commitment to build three new prisons and to provide an annual capital investment programme of £120 million. That is a record package of investment.

George Foulkes (Lothians) (Lab): How will each of those prisons will be financed?

Kenny MacAskill: The prison at Addiewell is being built under a public-private partnership scheme that we inherited. The other prisons are being reviewed and will be financed in a variety of ways. We are pressing on with HMP Bishopbriggs, and with HMP Grampian to replace the unfit prisons in Peterhead and Aberdeen. The financing of those prisons will become clear in due course. Nevertheless, I can give a commitment to Lord Foulkes that HMP Grampian and HMP Bishopbriggs will be in the public sector, unlike the prison estate that the previous Administration oversaw.

Building prisons is not the single answer to the challenge that we face. Prisons are costly to build and expensive to run, with each prisoner place costing the taxpayer approximately £40,000 a year. As the Government has said, there comes a time when we must look after our pensioners, not pander to prisoners.

The Scottish Government came into office committed to delivering a modern and coherent penal policy that has at its core swift justice, payback, reparation and more effective management of offenders for whom prison is the right place.

Brian Adam (Aberdeen North) (SNP): Will the cabinet secretary consider a variety of cells—whether in prisons and remand centres, or police

holding cells and court cells—to ensure that the public purse gets best value for money? Not only the SPS estate must be looked at, but the entire estate for holding individuals, whether they are convicted or not.

Kenny MacAskill: Absolutely. Some aspects of that are operational matters for the police, but the issue has been raised with me by Lothian and Borders Police, which is more than happy to discuss it. Some issues fall within the remit of the SPS and others fall within the remit of the police. We must ensure that cell accommodation for convicted prisoners, remand prisoners and prisoners who are being detained pending an appearance at court is suitable and secure. It must serve the needs not just of our communities, but of those who have to work in it.

I confirm that a response will be published before the end of the year. We want to consult on and discuss our plans and listen to what others have to say, and this debate on the report of the independent Scottish Prisons Commission gives us an opportunity to do just that.

We want a policy that is born of discussion, consultation and, I hope, some consensus. For example, our discussions with the Convention of Scottish Local Authorities are already bearing fruit, as I have been able to agree with it joint key objectives for delivering a coherent penal policy.

We have long held views about the current intolerable situation, in which prison numbers have continued to break all records almost daily to the point at which we now have more than 8,000 offenders in custody. However, we want to hear others' views. As a result, the Scottish Prisons Commission, chaired by Henry McLeish, was set up to take independent stock of the situation and to offer views on what Scotland's future criminal justice system might look like. The commission delivered. Within an extremely short timeframe, it produced a report that is receiving international recognition, and I am indebted to Henry McLeish and each and every member of his team.

The report paints two very different scenarios. In the first, we have a broad and far-reaching spectrum with, at one end, prisons that are internationally recognised as models of excellence, housing only the serious and dangerous offenders who should be in jail and whom we need to jail to protect our communities. In such prisons, the staff have the time to work with offenders to address their behaviour and to reduce their risk to the public. At the other end of this spectrum—this is the vital part—there is a widely used and well-respected system of community penalties and payback.

The other scenario that is painted in the report is entirely bleak and, as the commission has rightly

pointed out, in many respects shows where we are already heading. In that future, there will be more prisons that are just as overcrowded as those that we have today; offenders will still be caught in the reoffending cycle with no future but continued offending; and communities will be no safer and, indeed, will be much less optimistic. Moreover, we should not forget the schools and hospitals that will not be built because that money will have been spent on building more prisons and supporting the offenders locked up in them.

Gavin Brown (Lothians) (Con): Will the cabinet secretary list some of the crimes for which people should never be but are, at present, sent to prison?

Kenny MacAskill: As Mr Brown well knows, we propose to establish a sentencing council so that we have guidelines for such matters. We have made it quite clear that sentencing is and has always been a matter for the judiciary. However, the statistics are quite clear. There are more than 8,000 people in prison, many of whom have mental health, alcohol or drug addiction problems. The Conservatives want to build more and more prisons until we are unable to build schools, houses and hospitals. We on this bench want to look after our pensioners through the cold winters, not pander to prisoners. We want to ensure that people pay back to their community the damage that they have done, not that they be given free bed and board and allowed to play pool.

We do not underestimate the difficulties that we have inherited. Despite being in charge of this country for so many years and even with a diktat from London, the Conservatives failed to build an appropriate prison estate. As a result, we inherited a dire mess.

A new prison costs about £100 million to build and, given that each prisoner costs the taxpayer about £40,000 a year, the cost of supporting a prison that is full the year round is therefore another £28 million. Those offenders should be paying back to the community, not being given free bed and board; they should contribute, not be a constant drain on the taxpayer. I am very surprised that a party that supports the so-called work ethic appears also to support people getting free bed and board and being allowed to play pool or sit around all day, instead of ensuring that they are outside, repairing the damage that they have done and making our communities better.

The commission report offers two stark choices: we can stay as we are—I have outlined where that will get us—or we can face the challenge and choose the hard, but the only, way of tackling this problem. We cannot go on as we are. The policy that has been articulated particularly by the Tories, but also by some on the Labour benches, is to follow the example of the United States of

America. As a result of building prison after prison, the most powerful nation in the world now spends £49 billion on incarceration and locks up one in 100 people in the whole community, one in 50 men of working age, one in 16 young black men and something like one in 66 of their mothers.

The current situation cannot continue: we must ensure that there are prisons for those who need to be detained because they represent a danger or have committed serious offences. Others should pay back and not be a continued drain on our society. I believe that an improved and flexible community penalties regime is the key, and that is what the Scottish Prisons Commission has said about payback.

Six principles form the bedrock of a robust community penalties regime: immediacy, visibility, effectiveness, quality, flexibility and relevancy. It is reassuring that the commission's report shows that those principles are already being applied in many areas. We need to build on that work throughout the country to ensure that best practice is spread. The Scottish Prison Service tries to give offenders the life skills that they need to allow them to return to society better prepared, but it cannot do so if it continues to have to work with intolerable numbers and under intolerable pressures.

What is the positive way to tackle reoffending? Reducing the number of people whom we imprison will free up valuable Scottish Prison Service resources so that those who have committed serious crimes, or those who present an unacceptably high risk to public safety, can be dealt with more effectively. Something is fundamentally wrong if many of those who are detained in prison and who have to be in prison cannot do the hard work that the public expect of them because the Scottish Prison Service does not have enough resources. Some seem to think that it is wrong that prisoners should go out and do hard work, but the Government makes no apology for believing that those who have committed sins and crimes against our communities and who have been detained not only in the interests of public safety but because of the crimes that they have committed should be made to pay back for what they have done through hard work. The aim should also be to rehabilitate such people, but we make no apology for seeking to ensure that prisoners and those who serve community sentences repay our communities with the sweat of their brow.

Dr Richard Simpson (Mid Scotland and Fife) (Lab) rose—

Cathie Craigie (Cumbernauld and Kilsyth) (Lab) rose—

Kenny MacAskill: I must make progress, as I am coming to the end of my time.

We asked the Scottish Prisons Commission to consider the feasibility of implementing the measures in the Custodial Sentences and Weapons (Scotland) Act 2007 as a means of achieving our aim to end the current arbitrary system of automatic early release, which was introduced—let us not forget—by a Conservative Government in 1993. The commission concluded that, subject to certain modifications, the 2007 act can still provide the means to deliver a comprehensive system for managing offenders who have been sent to prison. We will seek to build and expand on that in due course.

The commission recognised that intensive management, with the Scottish Prison Service and local authorities working together and those who are back in the population being monitored, helps to reduce risks. Therefore, we need to be innovative in how we deal with the vast majority of offenders who currently get short jail terms if we are to be able to deal properly with the most serious offenders. It is becoming increasingly evident that various organisations—in health, housing, education and employment—need to have much closer relationships to tackle the root causes of offending. Getting those relationships right is vital for Scotland.

It is clear that some people will not be satisfied with all of the commission's report, but we ask people to consider it. We have inherited an appalling situation. The prison estate is unfit for the 21st century, but we are taking action to address the problem. We have inherited a situation in which the numbers of people in prison are rising at a time when the crime rate is falling, which is a paradox. There is something wrong. We cannot build our way out—we cannot simply build more prisons. We are committed to building three new prisons, which we are doing; that puts to shame previous Administrations, which did not act with such alacrity and left us to take responsibility.

We will do what we must do, and we give a challenge to members. If they are not prepared to support us on tough, meaningful community sentences—ensuring that people repay what they have done with the sweat of their brow and ending the free bed-and-board culture—they must tell us what they would cut. They must tell us which schools or hospitals they would not build or which other infrastructure projects they would not undertake, and why they would prefer to put the interests of prisoners before those of pensioners as we enter a cold winter and fuel poverty beckons for far too many pensioners.

15:09

Pauline McNeill (Glasgow Kelvin) (Lab): I welcome this opportunity to debate again the way forward on prison policy, and I welcome the fact that we have a significant report—for which I thank members of the McLeish commission—as a point of reference for our deliberations. Labour can work with and support some of that report's recommendations, but we cannot work with and support others. We support making payback to the community more central to the offender's punishment, addressing the underlying causes of offending behaviour, and expanding the range of community sentences.

We are clear that payback and other community sentences can be used only when there is consensus in the community and not resistance, or those sentences will fail. Much of the report needs further examination. I realise that it is a package of measures, some of which are interlinked. There is the concept of a default to a community sentence, which would be rebadged as a new community sentence. Other elements of the proposals are on restricting the direction of sheriffs in relation to custody, creating progress courts and abolishing home detention curfews.

I am concerned because, as a package, the proposals do not go in a direction that we support and I believe that victims will not support that direction, either. In effect, the proposals are a version of the SNP manifesto commitment to abolish sentences of six months or less—payback would be the default sentence and the criteria for jail would be restricted. If the proposals were adopted as set out, they would create alarm among the general public. Because of the size of the prison population, the Government is under huge pressure to reduce prisoner numbers—let us be under no illusion about what drives the policy. But hey, the problems are easily solved. Why does the SNP need a commission to give it the answers when it has the answers already?

Yesterday, we had the latest instalment of the cabinet secretary's insights. He believes that we should open the doors of Barlinnie prison and send 1,500 convicts to speed up the completion of the M74 extension or the Commonwealth games village. However, the agents of the M74 contract, Glasgow City Council, were heard to give a considered response to that—I think that Steven Purcell said that it would happen over his dead body—and the unions might have appreciated a call on the matter before that brash statement was made. The cabinet secretary should be warned about making simplistic statements that antagonise the general public, who are already cynical about the criminal justice system and who do not want 17-year-old apprentices who fought hard to get on a scheme in the first place to find

that the scheme becomes one for offenders who are let out of jail early. If we are to make radical changes, we need the public on side.

Kenny MacAskill: I am surprised by the tenor of Ms McNeill's speech. I have visited the Wise Group, which had a great deal of support from the Labour Party in previous Administrations, and which does an excellent job helping ex-offenders and people who come out of prison. The organisation meets those who are in prison to try to ensure that they go straight into work when they are released. One of the main sources of work is the construction industry. Is Ms McNeill condemning the Wise Group?

Pauline McNeill: Of course not—we support the Wise Group and its good work. However, that is not what the cabinet secretary was talking about yesterday when he suggested that 1,500 offenders in Barlinnie prison could go straight to working on the completion of Glasgow projects. He should think more clearly about what he says.

Today, in an attempt to persuade us that the report shows the way forward, the cabinet secretary suggested that prison is a soft option because prisoners simply play pool all day. However, most of us think that prison is a brutal regime. We do not want people to be in prison, but prison is the right option for many people. A change in emphasis should not be a matter for legislation; it should be about putting investment into community sentencing and working with the judiciary to use disposals and to show that community sentencing can work.

The report suggests that we should aim to reduce the prison population to 5,000. It would be fundamentally wrong to adopt an arbitrary figure and thereby imply that our courts would somehow have to bear that in mind in sentencing. Far from inheriting a mess, the Government would create a mess in our criminal justice system. If the notion is not rejected from the outset, the general public will be alarmed, as the implication is that almost 3,000 people who are in jail would not be there. The cabinet secretary would not answer the question that was put to him earlier about which of the 8,000 prisoners would not be in jail.

Community sentences have a high incidence of breach. In 2006-07, 1,892 breaches occurred, which was an increase of 26 per cent on the previous year. Some of the proposals on how to monitor that are welcomed, but it is essential to remember that community sentences are not the answer to everything. First and foremost, community sentences must look like punishment, otherwise the general public will not have confidence in them.

Labour supports alternatives to custody. Indeed, we presided over the largest increase in

community disposals with the introduction of tagging, probation for fine defaulters and the 218 centre for women. We support investment in that type of sentencing.

We must give the judiciary confidence that community sentencing can work; if we do that, the judiciary will use it. If the cabinet secretary wants our support, we will work with him to make further progress on real alternatives. However, we will not support a change in the law to force the eradication of sentences of six months or less, to make payback the default sentence, or to remove the option of custodial sentences for repeat bail jumpers, class A drug pushers, housebreakers, firearms offences, shoplifting and the 847 crimes of handling an offensive weapon in 2007. There were also 1,800 common assaults, many of which were by repeat offenders. I am sorry, but we cannot work with the cabinet secretary on that.

The report suggests that locking people up does not reduce offending, but there is no evidence to the contrary, either. Let us not forget the petition that has been lodged with the Scottish Parliament calling for legislation on knife crime, and for mandatory sentences of up to three to six months for carrying a knife. That proposal might be lost under the report's proposals.

We will work with the cabinet secretary on the creation of a national sentencing council, but he must not pass the buck to the council; let us debate sentencing in this chamber.

The report's statement that jail should be reserved for those offenders whose crimes are serious requires clarification. Under such an approach, offenders who commit less serious crimes would no longer go to jail. It will cause a ripple of outrage among the general public if that approach is not clarified. The purpose of the prison system has always been to punish people and, to some extent, retribution has always been an accepted part of why we put people in jail. After reading the report, I am not clear whether we believe in that any longer.

I am disappointed that the report does not say more on getting women out of jail, given that there is cross-party support for doing more in that regard. Labour and the Liberal Democrats created the 218 centre. It is important that the Government invests in that and in other alternatives to jail for women offenders. We have heard nothing about that so far.

The cabinet secretary spoke about the number of offenders in the system with drug and alcohol addiction. There is common consensus that drug treatment and testing orders need to be used more widely, and that they should extend to alcohol. There must be a fundamental change in the structure of the orders, because the resources

and bureaucracy that are required to issue a DTTO are far too cumbersome. If we are to expand the scheme, we must completely restructure the process to make it a serious option for offenders and the courts.

There are points of interest for further discussion, such as progress courts and conditional sentences. For example, I was not aware that Scotland did not have powers for imposing suspended sentences and I would like more discussion to take place on that.

If we want to make further progress on providing alternatives to jail, the Government must show where the investment will be made. Having scrutinised the budget, I do not see where that will come from. There has been a cut of 0.7 per cent in the community budget. If the Government really believes in alternatives to custody, I would like the Minister for Community Safety to tell us where that money is when he sums up.

15:19

Bill Aitken (Glasgow) (Con): Once again, the Cabinet Secretary for Justice begins a debate with the old canards. He is building three new prisons—that is true, but he conveniently forgets to say that two prisons are being pulled down and he has never told the chamber which genius was responsible for one of the prisons being demolished before the replacement was ready, although I accept that that was not his fault.

The cabinet secretary says that crime is going down, and he is correct about the reduction in property crime. The reasons for that are increased and improved security and the fact that, under his regime, there is reluctance to report petty crime because nothing happens.

The cabinet secretary says that we jail more people than comparable jurisdictions jail. However, if we look at what happens elsewhere in Europe, we find that the countries that jail more people than Scotland—based on the number of offences committed pro rata—have the lowest crime rates. I refer to countries such as Spain, Portugal and Ireland.

The cabinet secretary accuses the Conservatives of being obsessed with the American solution. The other day, it seemed to me that he was reverting to the concept of the Alabama chain gang—it remains to be seen whether he was misquoted. In fact, the cabinet secretary is quite wrong to level such an accusation against us. I have said in the chamber before and will say again that I am attracted by the New York community court set-up. I think that that is the way forward and that the cabinet secretary should examine it; I may have more to say on the subject later.

I associate myself with the thanks that Kenny MacAskill and Pauline McNeill offered to Henry McLeish and the commission for the work that they have done. However, when Henry McLeish accepted his brief, which was to work out how to jail fewer criminals, with such enthusiasm, the alarm bells sounded. When the commission's report was received, it confirmed my worst nightmares. The report is lamentably weak. Were its recommendations to be accepted in their entirety, the damage to Scotland's law-abiding communities would be immense. Disappointingly, at no time today or previously has the cabinet secretary indicated how community sentences can be made to work. Why did the commission, in the long months during which it sat, not give serious thought to how community sentences could become more workable and more acceptable to sentencers? It seems that the commission has simply built on the existing farcical situation, in which fines are not paid, community service is ordered but not performed and offenders are not made to realise the seriousness of their crimes and offences.

The cabinet secretary failed lamentably to answer the question that was, quite properly, put to him by Gavin Brown. Who is he suggesting should not go to jail? Under existing disposals, offenders sentenced to imprisonment for six months or less include shoplifters or petty thieves who have been convicted 30 or 40 times, disqualified drunk drivers who have been convicted on four or more previous occasions, wife beaters and football hooligans. Who precisely is the cabinet secretary suggesting should not be sent to prison?

Ian McKee (Lothians) (SNP): Does Mr Aitken agree that the large number of people who are mentally ill and are in prison at present should be in other institutions for their treatment and care?

Bill Aitken: There are problems in that area. Remarks were made about Cornton Vale. In company with other members of the Justice Committee, I visited Cornton Vale, where I saw women who I thought should not be in prison. They were there because they were a danger to themselves and to other people. Regrettably, if they were placed in a hospital environment they would present an even greater danger to themselves. I concede that that is a problem, but I do not see an answer to it.

Angela Constance (Livingston) (SNP): Will the member give way?

Bill Aitken: I must make some progress.

Let us consider how offenders could offer payback by the sweat of their brow, as the cabinet secretary so graphically put it. Clearly, he has not thought through the technical difficulties of the

issue. Pauline McNeill referred to the resentment that people who are unemployed or who have had to fight hard to get apprenticeships will feel when work is taken away from them. If we suppose for a moment that that is acceptable, how will the cabinet secretary prepare a list of tasks to be done and a list of employers who want them done? Above all, how will he guarantee the security of wider society by ensuring that many of the people who have been released temporarily from prison to do such jobs do not do the proverbial runner?

To be frank, the commission's report epitomises the soft-touch-Scotland approach that is so beloved of Kenny MacAskill. He has to realise that justice must be immediate, that it must be seen to be done and that society must be safe.

The report deals with the New York experience and what happens in the Midtown community court. I commend that approach to the cabinet secretary in the strongest possible terms. It is immediate and it bites but he, in turn, would have to bite the bullet that, in the short term and until criminals got used to the fact that such a court meant business, there would be more jail sentences rather than fewer. However, once the approach worked through, it would benefit everyone.

Henry McLeish's report is profoundly disappointing. If the Government goes ahead and tries to force through some of the recommendations, public indignation and concern will be enormous.

15:25

Robert Brown (Glasgow) (LD): The report of the Scottish Prisons Commission makes compelling reading and sets out a strategy for prisons that is based essentially on what works, identifies realistically what prisons can and cannot do and puts the public's safety at the centre of its consideration, so it is profoundly disappointing to hear the response to it from the Labour Party and Conservatives.

The report argues starkly that

"Scotland's prisons hold too many prisoners on short sentences where there is no real expectation of being able to punish, rehabilitate or deter",

which are the main objectives of penal policy.

Henry McLeish's group also argues that the public are up for a debate on the matter. Most people know that prison gives hard-pressed communities a little relief from troublemakers, that imprisonment is necessary to protect the public from dangerous criminals and that short sentences rarely solve the problem.

The report contains many recommendations and insights. The Liberal Democrats strongly support

many of them, but we have reservations about, or a different view on, others. Penal policy is a complex issue, and I urge the cabinet secretary to move carefully as he makes progress on that agenda. The report would benefit from closer examination, not least by the Parliament's Justice Committee. A wider public debate is also required to examine the proposals in detail and to determine exactly what they mean in practice, how they might be implemented and whether some of them should be implemented.

Let us be more specific: 83 per cent of sentences in 2005-06 were for six months or less, and 57 per cent were for less than 90 days. The relief to the community is brief and no one could expect a change in behaviour in that limited time. Indeed, prison can be a college for criminals because of the association with older and more hardened types that it brings about. How much more is that the case for the more than 200 people under 18 years old who are held in Scottish prisons? That is a continuing blot on Scotland, and ending it must be a top priority for us.

What about the finances? It costs up to £40,000 to keep a person in prison for a year. It costs £28,080 a year to go to Eton, a modest £28,005 to go to Harrow and a snip at £23,499 to board at Fettes—the sort of places that produce the odd Prime Minister or two.

It is difficult to compare like with like in this field. There are unacceptably high reoffending rates for every type of sentence—Bill Aitken was right to touch on that—whether in prison or the community. Reconviction rates for those given community, restorative or rehabilitative sentences are better but probably relate to a different tranche of criminal. We must recognise that. The 60 per cent reoffending rate for prison is matched by only a slightly lower rate for probation and a 42 per cent rate for community service. The difference is that the cost of community service is just below £1,500 for six months. The important point is how to improve the situation, focus on it and find the best options to implement—options that make a difference and have lower reconviction and reoffending rates.

There is no magic wand. All the calls for tough sentences and mandatory imprisonment, for prisoners to pay with the sweat of their brow or for us not to pander to prisoners—I wish the cabinet secretary would refrain from such alliterative phrases—that we often hear from populist politicians looking for a headline do not appear to deter people from committing crimes or reoffending when they come out. The commission states:

"there is an obvious reason for this. The most important drivers of offending and re-offending are ... social and cultural"

and lie

“beyond the reach of the penal system”.

The cabinet secretary wants payback to the community to be central. That is right in many cases, but it must be matched by action to tackle the other causal factors that have produced highly antisocial attitudes, addiction, anger and frustration in offenders. It is highly significant that half the crime in Scotland is committed by people from just 155 of the country's 1,222 council wards.

Of course, that is borne out by common sense. Scotland has one of the highest rates of prisoner numbers in Europe and sentences across the board are getting longer, but there is no noticeable effect on crime rates. High percentages of the prison population are functionally illiterate and 70 per cent suffer from mental health or severe addiction problems and have no skills.

Justice delayed is justice denied for the community, the victim and, indeed, the perpetrator. There is common ground on having a faster-moving system in which people and facilities are in place immediately after sentence for the convicted person to start repaying their debt to society and start the alcohol addiction project, the anger management course or whatever. The victim and the wider community are entitled to expect a proper and timeous sentence that works, and it is more likely to work if it starts straight away.

In that context, I was impressed by the experience of the north Liverpool community justice centre—which is referred to in the report—where the sentencing judge had a range of on-site services at his disposal to tackle the problems beyond offending. He can get immediate information about options and uses regular reviews to check progress. Too often in our system that does not happen: there is no place on a vital project, or probation officers are unable to see the offenders. We back the commission's call for a problem-solving, evidence-based approach because the old ways will no longer do.

The Government needs a timetable and a clear and costed action plan that will map out what is available, where the gaps are, how they will be filled, what is to happen in every sheriffdom and community in Scotland and, crucially, ensure that there is effective public and professional monitoring of progress.

Reform of our penal system to make it work for the community, cut crime and safeguard the public is one of the most significant projects for a generation. Central to that is slashing ineffective short-term prison sentences, releasing resources for what is proven to work and having a different kind of sentencing that is backed up with better rehabilitation and more investment in tackling the

underlying causes of crime and diverting young people who are likely to offend.

Imprisoning non-dangerous criminals for short periods does not work and costs a fortune. The Scottish Prisons Commission report should be given a fair run. There should be a full debate on the matter and we should decide in due course which of its proposals to take forward to achieve the objectives that it rightly sets out.

15:32

Stuart McMillan (West of Scotland) (SNP): I am grateful for the opportunity to speak in what has been an interesting debate. I start by disagreeing with the accusation that the SNP has a soft-touch approach to prisons and crime. With more than 8,000 prisoners—a 3 per cent increase over the past year—prisons at bursting point and a 22 per cent increase in numbers over the past decade, I struggle to see the logic in the soft-touch argument.

I do not doubt that the media hysteria that surrounds the issue has gone some way to producing that mindset. The *Daily Record* had a front-page headline one week of “SNP to free 4000 jailbirds” and a headline of “Outrage as 8000 Scots behind bars” another week. Those inconsistent reports appeared within three weeks of each other. A touch of consistency on this important issue would be beneficial, while the Government puts in place procedures for the future welfare of society as a whole. I am content that the Scottish Prisons Commission report recognises the need for action.

I believe that prison is the right place for convicted rapists, murderers, drug dealers and other serious offenders. I also believe that less serious crime can be dealt with in alternative ways.

Gavin Brown: Will the member give way?

Stuart McMillan: I am sorry—not at the moment.

The issue of payback is highlighted in the report alongside the recommendation of

“finding constructive ways to compensate or repair harms caused by crime.”

That approach is the appropriate way to engage offenders in rehabilitation work that will benefit them and the community.

Gavin Brown: I am grateful to the member for giving way. What is Stuart McMillan's definition of “less serious crime”?

Stuart McMillan: I will come to that later.

A visit to Barlinnie prison a few months ago made it obvious to me that there are problems with

trying to rehabilitate prisoners. The overcrowding problems have obvious implications for preparing prisoners for release—an overcrowded prison does not lend itself to working on rehabilitation programmes, nor does it help work on assisting prisoners who are about to be released. That should be obvious to everyone. A payback scheme will allow us to ensure that less serious offenders give something back to the community that they have damaged. It will ease overcrowding and facilitate more effective rehabilitation, with the longer-term aim of cutting reoffending rates.

The type of payback and the cost implications will be matters for further discussion, but the fundamental aspect of the initiative is key to the future of our prison estate. Earlier this week, the cabinet secretary highlighted working on building sites as an option for payback. I would like less serious offenders to give something back, for instance by fixing and painting fences, cutting grass for elderly people or collecting litter and rubbish from the sides of railways and motorways. Those are all practical and, above all, useful ways of punishing offenders for their crimes, and they will remove the free-bed-and-board culture that afflicts the prison estate and costs it dearly financially. The Scottish Prison Service says that its costs are more than £40,000 per prisoner per year. I would prefer that the money was spent—not squandered—on payback schemes and on trying to rehabilitate serious offenders in prison.

I am sure that many people listen to debates such as this and automatically call for public floggings, capital punishment and other extremes. I do not advocate such measures, and I agree with human rights. Everyone should have rights, even prisoners. There are two key points, however. First, with rights come responsibilities: if a person commits a serious crime, their right to roam the streets as a free person should be removed. Secondly, prisoners deserve a basic level of rights.

I am more concerned, however, with the human rights of the innocent victims who have been wronged. My main concern is for the elderly lady who has been mugged or beaten up, and who is now too petrified to go out. She might also be scared to switch on her heating because of soaring energy bills, whereas prisoners live in warm cells and have three square meals a day. I am also more concerned about the human rights of a child who has been the victim of a sexual offence.

The Scottish Prisons Commission's report states:

"Scotland will not have a world-leading prison service ... until we reduce the unnecessary, costly, damaging and dangerous overuse of custody."

I am pleased to see that the SPC's recommendations include one for a sentencing council, which is also a commitment of the SNP. The issue is currently being examined. I must disagree, however, with the comments of John Scott, chair of the Edinburgh Bar Association, who said:

"sentences less than 12 months don't do anything."

I think that sentences of less than six months are a costly waste of time, but taking offenders out of the community for longer sentences provides respite to those who have been affected by them. I look forward to further developments on the sentencing council in due course.

I have been keen to track the issue of mandatory sentencing for knife crime, of which everyone in the chamber is aware. When Damien Muir was murdered in Greenock in July last year, his family immediately took on the immense challenge not only of introducing mandatory sentencing but of safeguarding the future of our streets. As Damien's father John pointed out to the Public Petitions Committee this week, Scotland is one of the most successful countries for things such as engineering and medicine, so why do we have more knife crime per capita than anywhere else in Europe? I was pleased to note that Mr Muir has reported positive meetings with the cabinet secretary on the matter, and I look forward to the progression of the sentencing guidelines and the sentencing council consultation.

I am sure that the rest of the afternoon's debate will be robust at times, but I am also sure that all members must recognise the important contribution that the Scottish Prisons Commission's report has made to bringing the justice and prisons debate to the public and to the Parliament.

15:38

Cathie Craigie (Cumbernauld and Kilsyth (Lab): For Scotland to aim for a world-leading prison service is laudable, and all of us who have been elected to Parliament will agree with the priority of keeping the public safe. I can accept some of the Scottish Prisons Commission's report and findings, but the commission had nine months in which to consider evidence and make its recommendations, whereas we have just two hours in which to consider that report this afternoon. It is impossible to go into detail on all areas and recommendations, so time ought to be given for further consideration of the report.

I wish to raise a few issues on which I have concerns. I am troubled by the headline target to reduce Scotland's prison population to an average of 5,000 prisoners. I am surprised that a Government that is so willing to remove other

targets, such as the target to reduce the number of young people not in employment, education or training, is so keen to have fewer potentially dangerous people in prison in order to meet a target that it is setting. Who will be responsible for meeting the targets? Will our judges have to have an eye on the targets, instead of on the need for justice to be done and on the need for communities to see that justice has been done? Instead of measuring success by setting targets and ticking boxes, the cabinet secretary should encourage more judgment and responsibility and there should be more Government involvement in reducing the prison population.

The cabinet secretary often says that sentencing is a matter for the judiciary. That is true, but such comments have been contradicted by recent comments from the Government. The SNP must assure us that judges will make sentencing decisions based on the severity of crimes and not on the number of beds in Barlinnie.

Kenny MacAskill: The member can rest assured that we remain committed to the principle that sentencing is a matter for the judiciary. We have said so before, we say it now and we will say it in the future.

Cathie Craigie: I am pleased that I took the intervention. The cabinet secretary can say the words all he wants to, but it is actions that count and the Government will be judged on its actions. The cabinet secretary has not come out on top in relation to some actions that have taken place on this Government's watch, which my constituents have had to judge.

As other members are, I am concerned about how prison numbers can be reduced to 5,000 from the current level of about 8,000. I have always accepted that prison should be for people who are a threat to the community; I take it that the cabinet secretary accepts that, too. If some 3,000 too many prisoners were getting bed and board at the taxpayer's expense yesterday, we must consider our prospects of meeting the target for cutting the prison population and saving money.

We must consider the evidence. We can start by considering the Scottish Government's statistical bulletin, "Prison Statistics Scotland 2007-08", which was published in August. Of the prisoners who had received sentences of less than six months, 75 were young offenders and 485 were adults, which amounts to 560 people. That falls far short of the 3,000 target. According to the bulletin, 14 per cent of the sentenced prison population are in prison for homicide, 16 per cent are in for serious assault and attempted murder, 7 per cent are in for robbery, 3 per cent are in for rape and attempted rape, 4 per cent are in for housebreaking, 3 per cent are in for handling offensive weapons and 14 per cent are in for drug

offences. As other members said, who would we let out?

Angela Constance: Will the member give way?

Cathie Craigie: No. I am sorry—I need to make progress.

Who of those people would the cabinet secretary suggest has been wrongly imprisoned? For whom could it be argued that the public would be safer and better served if the person was out on the street?

In case members make the point about fine defaulters, I should say that yesterday 13 fine defaulters were in prison. I agree that those 13 people should not be in prison. I am happy to say so on the record. However, 13 is a long way short of 3,000.

The cabinet secretary understands that the commission's examination of the role of the open estate is of great importance to my constituents, as a result of the case of Robert Foye, who absconded while he was out in the community from Castle Huntly and, while he was on the run, raped a young constituent of mine. Robert Foye is exactly the kind of prisoner that prisons exist to punish, hold securely, risk-assess accurately and rehabilitate effectively.

Future decisions on prisons should focus on security and classification, but I call on the minister to ensure that decisions focus more on the risk of harm that prisoners pose to the public. Risk of harm to the public and not targets and tick-box exercises must be the consideration in all decisions to imprison an individual.

The issue requires Parliament's serious consideration, so we should have a longer debate on it—Parliament should be allowed to scrutinise fully all the recommendations in the report. I accept some recommendations, but several give me serious cause for concern, especially given that Parliament has been asked to consider the Government's Judiciary and Courts (Scotland) Bill, which would take away more power from the cabinet secretary.

15:45

Willie Coffey (Kilmarnock and Loudoun) (SNP): I am pleased to welcome the cabinet secretary's speech and the report by the McLeish commission, which brought together a wide range of backgrounds and perspectives.

The commission uses a powerful device to open our eyes to the long-range alternatives that face Parliament. By simply describing two possible futures, the commission alerts us to the significance of the choice that we will make in response to its report.

The trends of the past 10 years are clear and have been debated during this parliamentary session and many times before. Our prisons are ever more overcrowded. The number of admissions has increased relentlessly—from 15,000 in 1996 to 20,000 in 2006—and no evidence supports the notion that the numbers are rising because the level of crime is rising. In fact, the commission's report shows us that even when crime rates fell, prison numbers rose.

Short-term prisoners clog our prison system. Thousands are admitted for fine default and have an average stay of less than two weeks.

Bill Aitken: Will the member give way?

Willie Coffey: If Bill Aitken listens to the rest of my speech, it might explain the situation more clearly for him.

The average fine that is involved is £275, but the average cost of imprisonment is £1,200. There appears to be no agreement on which offenders should be imprisoned and which might be better dealt with by community disposal.

Bill Aitken: Will Willie Coffey clarify the position? We heard from Cathie Craigie that 13 people were in custody yesterday for fine defaulting. The last figure that I saw was three. The problem is now minimal.

Willie Coffey: I am sorry to contradict Mr Aitken, but the evidence speaks for itself—thousands of admissions for less than two weeks are made for fine defaults. The figures are there and speak for themselves.

Cathie Craigie: Will the member take an intervention?

Willie Coffey: Please let me make progress.

Prisoners are ejected from prison halfway through their sentences and no arrangements are made for onward supervision. Our prisons draw most of their population from a very small group of deprived communities. In those communities, the problems of poverty, ill health and addiction flow from one generation to the next. *[Interruption.]*

Deprivation is not an excuse for criminality, but the relationship is so strong as to demand our attention. When they enter the prison system, most prisoners demonstrate poor literacy and numeracy skills—*[Interruption.]*

The Deputy Presiding Officer (Trish Godman): I ask all members to check their mobile phones.

Willie Coffey: I do not think that my phone was responsible for the interference, but I have removed it anyway.

When they enter the prison system, most prisoners demonstrate poor literacy and numeracy skills, entrenched drug and/or alcohol addiction and an astonishingly high rate of mental health problems, therefore many of us have asked what our prisons are doing to address those issues. The commission has turned that question back on Parliament and asks whether prison is best placed to tackle such matters or is simply the service of last resort when all others have failed. Unless we tackle those issues head on, we will continue as a society to fail to meet our responsibilities.

One justification for ever-increasing use of prison is that it offers respite to communities whose peace is ruined by persistent offenders. That relief is greatly welcome in places such as my community in Kilmarnock and Loudoun, but is it enough? If Parliament and the Scottish Government are to show leadership in tackling crime, we must do more than run to stand still.

The evidence is increasing that short stays in prison act simply as immersion courses in criminality. Many who emerge from a first custodial sentence revert immediately to their criminal behaviour, possibly with new-found friends of like mind. Thereafter, the prison system becomes a revolving door for individuals who are increasingly difficult to reform.

The commission offers us the opportunity to reconsider prison's role in the criminal justice system. We can repeat the pattern of the past 15 years and tinker at the edges, or we can aspire to the positive vision that is described in the commission's challenging report. The basis for the choice is clear: it is to rebuild confidence in the sentencing options that are available to Scotland's judges.

The last time we debated this issue, it was claimed that all those who are in prison are there because a court thought that prison was the best available option. That statement captures the real failure of criminal justice policy in the past 10 years, and the McLeish report stresses that.

Evidence from the community justice authority in my area of south-west Scotland showed that reoffending rates were 75 per cent for those who had already been in prison, but that only 39 per cent of those who received community penalties reoffended.

We must have well-functioning prisons for those who are a threat to the community, or who have been found guilty of offences that are so serious that depriving them of their liberty is necessary to protect law-abiding citizens. However, those who are admitted to prison should be there long enough for an assessment to be made of what needs to be done to change their behaviour, and for a start to be made in achieving that change.

I congratulate the commission's members on the job that they have done in a tight timescale. In no way were they either nationalist place holders or a gang of soft-on-crime do-gooders. Therefore, it is disappointing to see their report immediately misrepresented as some kind of soft-touch charter for muggers, thieves and drug dealers. That is an insult to the commission.

The vision that is offered in the McLeish report describes two futures. One is a future in which Scotland's prisons hold fewer but more serious prisoners and in which there is a well-respected community-based sentence system that is demonstrated by low reconviction rates. The other future is one in which there is more overcrowding and where petty offenders are immersed into developing their criminality alongside long-term offenders.

Scotland has to consider and make a bold choice, free from the hysteria that surrounds the current debate. I hope that we will make the right choice.

15:51

George Foulkes (Lothians) (Lab): As you know better than anyone here, Presiding Officer, I have been around one Parliament or another since 1979. However, I have never heard such an astonishing rant from a minister as the one that we heard earlier. We know that Mr MacAskill has an eye for a headline, but the headlines of the past few weeks have stated that Barlinnie's overcrowding has hit an all-time high and that the Scottish prison population is now 8,000 and rising. Where is the minister in all this? He is commenting on it, tut-tutting and saying, "Oh dear, isn't this awful?" He thinks that he is still a critic, an observer or an Opposition spokesman. However, he is now the minister, and he should take responsibility for the situation. He should wake up, realise that he is the minister and stop passing the buck and ducking the blame. At the moment, unlike other cabinet secretaries, he will not even answer a parliamentary question. Instead, he says that he has asked Mike Ewart, chief executive of the Scottish Prison Service, to respond. It is as if he thinks that the matter has nothing to do with him.

It is 16 months since the SNP took office. We have waited 16 months for the Scottish Prisons Commission to be set up and report. Now that it has reported, what do we hear? More debate and more discussion. We need action on this issue, but we have had none during the past 16 months and there is none in prospect for the next 16 months.

What does the report suggest? The setting up of two new quangos. Where is the bonfire of the

quangos that we were promised by this Government? It was going to tear them up, cut them down and save money. Instead, one was announced yesterday—the Scottish Futures Trust, under Angus whatever-his-name-is, which will cost £14 million—and two more have been announced today: the national sentencing council and the national community justice council. Again, the aim is to take responsibility away from Mr MacAskill, so that he can sit back and say, "It's over to you. It's your responsibility." However, these are responsibilities that should be taken by ministers who are accountable to Parliament.

Bob Doris (Glasgow) (SNP): Lord George talks about ministers taking responsibility. Who takes responsibility for the 20 per cent increase in the prison population from 2001 to 2007?

George Foulkes: We used to hear Mr MacAskill going on about that, attacking the Labour Administration for that rise. Now he is responsible—as he has been for the past 16 months—and the prison population rises inexorably.

There are some good points in the commission's work. We must break the cycle of reoffending and we must address Scotland's prison crisis. As others have said, 64 per cent of prisoners reoffend within two years, and for those who are in prison for less than six months, the rate—as Cathie Craigie said—is 75 per cent.

Those figures show an astonishing cycle of reoffending, but the relative success of community disposal orders offers us greater hope. According to some figures, the reoffending rate for CDOs is 39 per cent, but Sacro reckons that it is nearer 25 per cent. That is a great improvement, even allowing for the fact that the orders are for different offences. Sacro argues strongly that disposal orders are much less likely to be breached where supported accommodation and into-work schemes are in place. That raises an additional problem, because councils, which provide the supported accommodation and the schemes, can now transfer money from non-core funding to core funding when the latter is under extreme pressure, as it is at the moment. That puts an even greater squeeze on the schemes that really make a difference, because they are non-core funded. A postcode lottery is developing. Lanarkshire, the Lothians, Edinburgh and Ayrshire have great schemes in place, but other areas are less fortunate.

Sacro says that the average community service order is for 140 days, but there are significant delays in getting them started. I imagined that when a judge issued a community order it started the next day, but it can be weeks, or even months, before it starts. What does the offender do then? Are they contrite, and saying that Mr MacAskill has

come down hard on them through the judge? They are not, because they are waiting for that period of time. The community service might be for only seven hours a fortnight, for example, and it can take someone a year to serve their order. That inhibits people's ability to get on with the job.

Community service orders are under council control and, to meet the challenge of breaking the cycle of reoffending, the Scottish Government needs to build a stronger relationship with local authorities on the issue. Edinburgh runs a successful community link service that helps local offenders with housing, looking for work and general readjustment, but it is funded by the council and is currently under heavy financial pressure. In the past 12 months, one facility in Edinburgh that deals directly with young men who are at risk of reoffending has had to close due to lack of funding because of the squeeze that the historic concordat is putting on local authorities.

The Scottish Government must take responsibility. The minister must take direct responsibility and not pass it to the quangos. He must work with local authorities, give them the money and encourage them to have the political will—and then we can solve the problem.

The Deputy Presiding Officer (Alasdair Morgan): I call Angela Constance to be followed by Dr Richard Simpson.

Members: Gavin Brown.

The Deputy Presiding Officer: I apologise—I am ahead of myself. I call Gavin Brown, to be followed by Angela Constance.

15:58

Gavin Brown (Lothians) (Con): I hope that that was not intentional. I asked a simple question of the Cabinet Secretary for Justice, and of one or two other members: for which crimes are people currently sent to jail that they should not be imprisoned for? Drunk drivers and people who are involved in domestic violence are currently not sent to jail and, since the summary justice reforms were put in place, the number of people who get a fiscal fine for assault has doubled.

Angela Constance: Will the member give way?

Gavin Brown: If the member can tell me for which crimes people should not go to jail, I am happy to give way.

Angela Constance: Does the member agree that the introduction of a sentencing council gives greater scope for consistency and the understanding of risk of harm among judges, which will ensure that those who need to be in jail—the wife beaters, the sex offenders and the drug dealers—are sent there? I know that we do

not always put the right people in prison, but that is because of inconsistency in sentencing.

Gavin Brown: I set out the ground on which I would take the intervention and I am sure that the member heard what I said, but she did not give an example of a single crime for which someone would currently go to jail but should not.

The member appears to disagree with the cabinet secretary, who feels that judges are best placed to decide what should happen in the individual circumstances of each case, having heard and assessed all the evidence. I ask any member to tell me for which crimes people currently go to jail but should not.

Cathie Craigie: Fine defaulters should not go to jail. We spoke about the numbers earlier. Does the member agree that there should be other courses of action for fine defaulters and that we should take the judiciary's view on whether a jail sentence is necessary?

Gavin Brown: Yes. The Scottish Conservative party has made it clear that we agree with that, but according to Cathie Craigie's statistics it would reduce the number of prisoners by 13, on average. It would not make a big difference. It would not reduce the number from 8,000 to 5,000.

We heard from the cabinet secretary the age-old argument that we lock up many more people than any of our counterparts. Let us examine that for a moment, because it is not strictly true. We lock up fewer people per head of population than Spain, England and Wales, New Zealand and Luxembourg. The position is not as the cabinet secretary described. He tried to say that we are almost heading in the same direction as the United States of America and he gave some frightening statistics about that.

We lock up 141 people per 100,000 of the population and the United States locks up 750 people per 100,000, so there is no comparison. Our figure is closer to that of the Netherlands, which is 128 people per 100,000. Let us not exaggerate how many people we lock up compared with other countries. As my colleague Mr Aitken pointed out, a more important statistic is the number of people whom we lock up compared with the number of crimes that are committed. It is much better to use that statistic than purely to consider population.

However, let us come up with a solution. I was particularly disappointed with the McLeish report and some of the things that the cabinet secretary said because they present a false dichotomy between the current situation and the adoption of all 23 recommendations, which would mean that no one ever went to jail for six months or less.

The commission did not consider rehabilitation within the prison system. I used to volunteer at Edinburgh prison, where I worked for half a day a fortnight with people who were hoping to get out of prison. I saw some remarkable things being done—not by me, but by some of the people who work in that prison. They set up a scheme whereby, if a prisoner could read or write and they agreed to teach another prisoner to read or write, they got additional privileges. That system did not cost the taxpayer a single penny, so all the arguments that the cabinet secretary threw in about schools and hospitals are taken to one side. I met men in their 50s who had been in and out of prison for 20 years but who left prison and were able to find jobs because they could read and write.

Why not consider rehabilitation within the prison system? We still punish people; communities are still satisfied because they do not present a danger to the public; and such schemes are successful. The problem is that the Government does not have the political will to examine what is already going on and to replicate it throughout the prison system. Mr McLeish talked about an evidence-based approach, but the only reference to the matter that I could find in the report is:

“We also know that offender programmes are better provided in the community than in prison.”

The footnote to that statement—number 44—refers to a report from 1995: “What Works: Reducing Reoffending, Guidelines from Research and Practice”, which was edited by J Maguire. That is the only analysis that was done.

We should compare the figures for reoffending by people who have been on a rehabilitation programme in prison with the figures for reoffending by those who have not. If we have an evidence-based system and one that genuinely rehabilitates, protects the public, punishes and deters, the statistics might improve.

16:04

Angela Constance (Livingston) (SNP): First, it would be prudent for me to declare an interest. In a former life I was a prison social worker for five years, and for the five years before I became an MSP I worked at the state hospital at Carstairs as a mental health officer.

I strenuously take issue with Mr Aitken’s point because I know from my work experience that having people in the wrong system increases the risk to the public. I know—and I am sure that Richard Simpson knows—that it is deeply unwise to have offenders in the mental health system and to have mentally ill people in prison. The legal basis for detention and the aftercare procedures are entirely different in cases where someone is ill

and offends because of their illness and cases where the person is an offender.

The Scottish Prisons Commission report is aptly entitled “Scotland’s Choice”. We have known for many years what works and what does not work, so there is absolutely no need to reinvent the wheel. Irrespective of fluctuations in the crime rate—whether it has remained stable or has increased or decreased—prison numbers have continued to soar. Notwithstanding the need to incarcerate dangerous and serious offenders, we have always had a misplaced faith in prison. Professor Coyle states:

“How many prisoners do we want to have in ... Scotland? Because ultimately the answer to that question does not depend on levels of crime or on levels of re-offending. It is a matter of public choice.”

That is the real issue that needs to be addressed.

Soaring prison numbers are counterproductive and unsustainable and will, I fear, end in tears. Meltdown is not in the interests of the public, prisoners or prison staff. We are currently 1,000 prisoners over capacity. To address that, we need to address what happens to offenders at the point of sentencing. We want to do something different with them and something that works; we do not—as some have quite scandalously suggested—want to open the gates and let people walk free.

My colleague Willie Coffey was right to point out the damaging effects of short sentences. As he mentioned, in 2006-07, about 6,000 fine defaulters were imprisoned. He was perfectly correct to highlight that 88 per cent of those 6,000 spent less than two weeks in prison. One needs to look at the annual turnover of prisoners rather than at snapshot figures. No doubt the prison population on a particular day might have included only 13 fine defaulters, but the annual turnover shows that 88 per cent of those 6,000 fine defaulters spent less than two weeks in prison. That is not a good use of public resources.

If we are serious about challenging offending behaviour and addressing in depth the issues of drink, drugs and mental health as well as the education and employability of offenders, we need to target the good skills of prison staff.

Dr Simpson: I do not disagree with the member’s point about fine defaulters, but the figures are quite different. The number of fine defaulters was 3,600 rather than 6,000. That needs to be corrected. However, she is right to point out the discrepancy between turnover—that is, admissions—and the daily prison population. Those are two different issues that are very important to this debate.

Angela Constance: We could debate the statistics all afternoon, but I hope that we are agreed on the principle that fine defaulters are

clogging up the system. At the end of the day, sending someone to Barlinnie for a fortnight is like giving them a two-week apprenticeship in new ways to offend.

We know what works. We know that tough community sentences work. Forgive me for giving a personal example, but one young man whom I supervised many years ago for a community service or probation order complained profusely that he would rather have spent six months in Saughton than see me every week. Of course, in part that might be a reflection on my personality.

We know that reconviction rates for those on community sentences are more favourable than for those who leave prison. I know that West Lothian has achieved an excellent reduction in reconviction rates because of the good community service work that is being done. The Scottish Prisons Commission report rightly highlights Falkirk as a good example where offenders are seen on the day that they are sentenced so that they can be signed up there and then when they are given their community service order. That means that they are got out to work immediately.

Overall, the debate has given us many examples of how the system can be beefed up and made bolder. We need to use bail more wisely and target the people who are kept on remand. There are great examples of how community service sentences can be beefed up by using conditional sentences with a wider range of conditions. The progress courts will be a great way of ensuring that offenders are held to account and cannot turn their face against the law and against their community service orders without serious consequences.

Finally, I am committed to the idea that punishment should be visible, swift and fair, and it is for MSPs across the political divide to show some leadership in what works.

16:10

Dr Richard Simpson (Mid Scotland and Fife (Lab)): This is a very important debate. Some of the misconceptions that are around are being partially, but not fully, addressed. People are confusing receptions and the daily prison population, but they are two distinct things.

There is also some confusion between remand and sentenced prisoners. For example, the latest statistical bulletin from the Scottish Prison Service shows that the number of prisoners who were admitted for remand has gone up from 15,000 to more than 20,000—the exact figures are in the tables in the bulletin. That is a huge increase over the past seven or eight years. The daily population has also increased from about 800 to approximately 1,500 or 1,600—again, the accurate

figures are in the tables for anyone to see. Half of those who are on remand will not be convicted.

We should deal first with remand. Should we be remanding people? The Conservatives' point is that, if public safety demands it, we must put people into prison on remand—of course we must. I heard that debated in Parliament in the previous session, when I was not a member—and it is a very important debate—but it seems to have led to a huge escalation in the numbers of prisoners on remand for petty offences, which is totally inappropriate.

If prisons are to be efficient, they are faced with problems if they have high numbers of receptions. So the debate about the difference between the daily population and the receptions applies to fine defaulters—my colleagues in the SNP were trying to make that point. When I was minister in 2001, there were 7,000 fine defaulters. I am very pleased to say that the figure has dropped in the past year to 3,600. That is progress in the right direction.

However, 3,600 is still far too large a number. There will always be some who have to go to prison because they are totally recalcitrant—we have no alternative—but 3,600 is 3,600 too many. The Audit Committee report says that it costs £180 every time the court goes through the process, which means that £6.5 million is being spent on people who have defaulted on their fines and who should be paying into the community.

Getting the number of receptions down for remands and fine defaults will free funds within the prison system so that it can be more efficient and effective in addressing reoffending. That was my first point.

Bill Aitken: Does Dr Simpson agree that the answer to the problem of fine default, which he graphically and correctly states, would be to ensure that there is no default by deducting fines directly from salaries or benefits? The problem would then not arise.

Dr Simpson: We introduced supervised attendance orders in the 1990s and they were of some help. We tried the community reparation order pilots, which did not succeed, and I strongly advise that we look at why they did not succeed and go back to them. They are a way in which unsupervised people can do minor work within their communities to address their offending behaviour to the extent of their fine, and thereby pay it off. That sort of payback, to which the commission refers, is quite appropriate.

The one thing that I do not like about what the cabinet secretary said was the implication that the Labour Party did absolutely nothing when we were in government. When I was Deputy Minister for Justice, we authorised and completed the estates

review, and authorised the construction of two prisons, both of which were to be built by public-private partnership, although one was to be run publicly. So to say that nothing was done and that suddenly they—I am sorry, Presiding Officer, I mean the new Government; although you are not even “they”, if not “you”—have commissioned the new prisons is somewhat misleading.

I have some suggestions that might be helpful. We are all agreed that we want a system that has the public's confidence and which locks up those who put the public at risk and commit heinous or serious offences. However, what we cannot agree on is the best way of disposing of those who have committed minor offences. We must reduce the reoffending rate. The problems with the reoffending rate are partly due to drugs, but we still do not have an integrated system for dealing with drug dependency. Reoffending is also due to alcohol, with 50 per cent of young offenders and 33 per cent of adult offenders having alcohol problems; yet we have almost no alcohol programmes and certainly none that is connected to the outside. I suggest that we build on the success of the drug treatment and testing order—which I agree needs to be refreshed—by having alcohol treatment and testing orders. ATTOs could be used where medically appropriate and provide disulphuram as treatment.

We also need to address the employability of offenders, but not in the way that the cabinet secretary suggests, by releasing people dangerously on to building sites. That is entirely inappropriate. I introduced the Wise Group to Barlinnie. We need to build on that sort of thing and train people to go back to work.

As Angela Constance said, the mental health issue is crucial. I would make it a key performance indicator for the SPS to record the literacy of every prisoner and set targets for the reduction of illiteracy. There also needs to be cognitive behavioural therapy within prisons. At the moment, it is provided in Barlinnie but not in the other prisons. We need to deal with mental health and literacy issues.

Offenders' connections to their families are important; therefore, we should perhaps have more remand centres close to families. Also, as the report recommends, the time-out centre—which I launched when I was a minister and which the report hails as a success—should not be unique after seven years. We must have more time-out centres for women and we should pilot a time-out centre for men. That would deal with the drug and alcohol problems.

The Presiding Officer requires me to finish—

The Deputy Presiding Officer: You are correct.

Dr Simpson: Therefore, I do not have time to deal with the issue of personality disorders. Nevertheless, treatment for personality disorders is fundamental to medical treatment in the prison system.

There are ways forward and we should have a longer debate on how the way forward is to be developed.

16:17

Nigel Don (North East Scotland) (SNP): I am sorry that the Presiding Officer stopped Richard Simpson in full flow, as I enjoy listening to him. I also gratefully acknowledge Robert Brown's speech, which succinctly put a great deal of the subject in context. I am sorry that he does not like alliteration. Apart from that, I tend to go along with what he had to say.

I find myself at number 12 in the batting order—I made it on to the subs bench. I am not coming on with the drinks, however. I will try to draw together one or two issues that have arisen during the debate before the minister gets his go.

First, the reduction in prisoner numbers must be seen not as a target but as a consequence. I think that that is the point that Henry McLeish and his colleagues are making. If we do all the right things and remove people from the prison sausage machine who should not be there, we will end up with a smaller number of prisoners—we can argue what that number might be. However, to suggest that we start by finding ways to get those people out of prison is to get entirely the wrong end of the stick.

Secondly, I reflect on previous experience from the days when I used to do musical things. In Gilbert and Sullivan's “The Mikado”, the aspiration is that the punishment should fit the crime. No—I am not going to sing it for members.

Members: Aw.

Nigel Don: It came as no surprise to me when I discovered that Mr Gilbert was a lawyer, as there is an interesting legal point in almost all the operettas. It seems to me—I respect Gavin Brown's repeated intervention on the subject—that the definition of what is appropriate comes down to the criminal, the crime and, in particular, the environment in which the criminal finds himself or herself. Therefore, I do not think that we will finish up with a list of crimes that may or may not give rise to imprisonment. The sheriff should be able to consider the person who has committed a crime and ask what is appropriate for them in their individual circumstance. I presume that the same crime committed by a serial offender would give rise to a very different disposal from that which would be considered appropriate for a first-time

offender. So, we cannot have a clear set of absolute guidelines that tell sheriffs to do this, this or this without including many caveats about how they should handle individual situations.

I say to Pauline McNeill that one's view on whether one wants to go to jail depends on who one is. I absolutely agree with her—she and I do not want to go to jail, and we see the threat of that as a serious deterrent. However, as we know, the vast majority of people who finish up in jail do not regard it as a deterrent, or they would not go back so often. There are, after all, different kinds of folk in our society.

A few months ago, for example, a sheriff sent a speeder to jail for two weeks. That might not have been the only penalty that was given out, but I thought at the time that the sentence might teach that individual—who was rather more like us than the average jailbird—that speeding is not a good idea. They will probably not lose their job as a consequence—they might well lose two weeks' holiday and, of course, their licence—but they will be able to go back out into the world and carry on with their lives, having learned their lesson. We simply have to be careful not to be too pointed in what we prescribe.

As for the proposed sentencing council, which is at least relevant to those who will finish up in jail, why is it needed? Judges seem to know what they are doing and, as other members have pointed out, they need to have confidence in the various alternatives to prison. We are beginning to get that message and realise that the issue needs work.

However, the public also need to have confidence in the sentences that are being handed down. I take the point about creating yet another quango, but I suspect that if the sentencing council comes up with a sensible set of guidelines within which judges are happy enough to operate and outwith which they are happy to explain their reasons for handing down a particular sentence, that will do a great deal for public confidence.

The council should have a wide remit that includes research, but it must be well managed so that it does not turn into another large quango that provides jobs for the boys. In that regard, I note the suggestion that council members should be appointed for only a non-reappointable five-year term. Such a model will ensure that no one can gain anything from tweaking the system. Each appointee will do his or her bit for a while and then have to find something else to do.

Quango or not, the sentencing council should be under the ambit of another organisation for its bed, board and rations. It has been suggested that it could be part of the Scottish Court Service, but I do not think that it matters where it sits. Anything that can be done to reduce the council's costs and

eliminate human resource issues and the other bits and pieces that tend to become overheads would be a very good idea.

16:22

Duncan McNeil (Greenock and Inverclyde) (Lab): The current reoffending rates are unacceptable to us all. With people simply going into and out of our courts and prisons, wasting time and money and creating new victims time after time, it is in all our interests to put a spanner in that revolving door.

However, I have concerns not only about the current plans and the way in which they have been presented but, I have to say, about the cabinet secretary's language, which was completely different from the considered approach that was taken by Nigel Don. Mr Don's initial point that reducing the prison population was a desirable outcome united the whole chamber and stood in contrast to the cabinet secretary's view that these targets should be forced down our throats.

The public want criminality to be dealt with effectively and punished. The cabinet secretary needs to work with the Parliament on this issue but, unfortunately, his style and presentation have prevented that. Despite the fact that all parties in the chamber have broadly agreed that we must tackle the alcohol culture in Scotland that fuels much of the violence and disorder, his approach has given rise to confrontation, not co-operation, and certainly not agreement. The result is a missed opportunity.

The cabinet secretary's language this afternoon will again fail to assure the public—who, after all, are vital in any attempt to move to a different system—that he cares more about their safety than about saving money. Indeed, if it is not enough of a blow to the confidence of victims to have to live beside someone whom the cabinet secretary has described as the daft laddie—the person who makes people's lives a misery week in, week out; who verbally abuses the man, his wife and his family; who damages his car and the value of his property; and who is certainly not known by those people as a daft laddie—Mr MacAskill thinks that it is a good idea for that person to work alongside them as well. They may be forced to put up with that, but they will not accept a daft laddie running our courts and prisons.

The cabinet secretary needs to up his game. If he wants us to take him and the issues that he confronts us with seriously, he needs to work with the Parliament, not against it. He needs to deliver honesty in sentencing and the end of automatic early release. If his attitude to serious crime is to be believed, he needs to be decisive on

mandatory custodial sentences. He must not pass the buck. Let there be no comfort for anyone who supports today's plans in thinking that the elimination of six-month sentences will make it easier to achieve mandatory custodial sentences; rather, the plans make such sentences more difficult to achieve for those who carry knives, including repeat offenders who carry knives and those on bail who carry knives.

The cabinet secretary needs to give a voice to victims. He must put people such as Damian Muir's father, John Muir, at the heart of the sentencing council. He needs to give us confidence that when people are given community sentences, they will complete them, and that community sentences are not soft options or even that they are an option at all. He needs to ensure that when the mass prisoner releases that he proposes take place, the police will be properly resourced to deal with the results. Finally, he needs to guarantee that our communities will not bear the brunt of a flawed experiment. If he does so, gains the Parliament's confidence and gives our communities confidence, we can change how we deal with the situation that we face.

The Deputy Presiding Officer: We now move to the winding-up speeches.

16:27

Mike Pringle (Edinburgh South) (LD): As other members have said, the McLeish commission did an excellent job in tackling such an important problem over nine months. In its foreword, the commission's report states that that work brought the commission

"to what we believe is a crossroads where Scotland must choose which future it wants for its criminal justice system."

We should all aim to realise all of its positive six visions of the future for our prison service. I think that the cabinet secretary said that if we do not change our minds, we will end up with what McLeish described as "a negative future", which I am sure most of us do not want. As the commission said, a partnership that involves all stakeholders, from politicians right through to individuals in our communities, needs to take responsibility.

There are more than 8,000 prisoners in Scotland's jails, and the prison population has increased year on year; indeed, McLeish has projected that it will rise to 8,700 by 2016. I think that he is an optimist. As the cabinet secretary said, Scotland imprisons more people than most other places in Europe do, but experience tells us that a high prison population does not reduce crime.

The Liberal Democrats have put action to cut crime and reduce prison numbers at the top of our

agenda. Tough talk does not tackle crime. The campaign is about taking effective action to make our country safer. We need more police to be freed from the burdens of bureaucracy so that they can take back our town centres and communities, especially after dark. Instead of spending billions of pounds on compulsory identity cards for innocent, law-abiding citizens, we should spend that money on targeting criminals and tackling crime. We are spending huge sums on jailing people—in fact, it costs as much to keep someone in jail for a year as it does to employ a police constable.

The Liberal Democrats propose a five-point plan to make prisons work. We should cut crime, cut costs, cut reoffending, cut youth crime and make the punishment fit the crime.

The commission made 23 broad recommendations to realise its six visions for the future. I thought that Pauline McNeill implied that the commission was created to rubber-stamp the SNP manifesto, but I simply do not believe that. I am confident that it was independent.

The Liberal Democrats say that short jail sentences of less than three months do almost nothing to divert offenders from crime. More than 92 per cent of young men who are given short sentences reoffend. I can answer Gavin Brown's question about the sort of crimes for which people should not be sent to prison. If a judge is considering imposing a sentence of three months, they should think of a community sentence, not imprisonment. We would make more non-violent criminals, such as shoplifters, fine defaulters and petty vandals, work in their neighbourhoods to make amends for their crimes. So that the public have confidence in that, we would make the work that offenders do visible. To make the punishment fit the crime, we would make the sentences twice as long as current prison sentences.

Bill Aitken: Would that approach be appropriate for somebody with 30 or 40 previous convictions and what would happen when they did not do the work?

Mike Pringle: A judge would not think of a three-month sentence for somebody who had committed offences over the period of time that Bill Aitken is talking about. That person would perhaps not be sentenced to three months but, if he were, the judge should think of a community sentence.

In the commission's recommendations 2 and 3, it has come to broadly the same conclusions as the Liberal Democrats. We realise that locking up children far too often sets them off on a life of crime. Four fifths of young offenders who are released from prison reoffend within 12 months, and the rate is increasing. The best way in which to cut youth crime is through a radical programme

of alternatives to jail. Young people who need to be in custody should be sent to secure homes and improved secure training centres. We would roll out responsible behaviour panels throughout the country. Offenders would be required to face up to their misbehaviour and engage in community work as reparation. We would also expand the use of reparation orders, community punishment and supervision orders for juveniles, and give all young people in custody full access to education or training that is appropriate to their age and equivalent to that for other young people. In recommendation 7, Henry McLeish says almost exactly that.

I am pleased that, in recommendations 14 and 15, McLeish suggests that judges should have more discretion when imposing custody of six months or less and that they should use community supervision sentences far more often. Those community supervision orders should be imposed immediately. Robert Brown and quite a few other members have addressed the problem of how we make community sentences more effective. As one member said—I cannot remember who—it can take weeks before an offender knows what will happen to them. I suggest to Bill Aitken, George Foulkes and others that that is not the right approach. Once a community sentence has been imposed, the offender should be taken from the court and they should know immediately what the sentence means—not what it is, but what it means.

Pauline McNeill: I agree entirely that community sentences must be swift, but does the member agree that, if community sentences were tougher, sheriffs would choose them over jail? Does the member agree that, rather than force sheriffs to give community sentences, it would be more effective to allow them to choose those sentences naturally, which they would do if more were available?

Mike Pringle: I do not disagree. It would be the right way forward to give sheriffs more ways of dealing with offenders by imposing community sentences. I have referred to that before.

When an offender is given a community sentence and is taken from the court, he should know immediately what his community sentence means, how long it is for, how he will have to execute it and when it will start. That does not happen at present.

The McLeish commission has done an excellent job and, broadly, it is the right way forward.

16:34

John Lamont (Roxburgh and Berwickshire) (Con): I welcome Robert Brown to his new role as Lib Dem justice spokesman. I should take the

opportunity of telling Mr Brown how much I am looking forward to welcoming him to my constituency when the Lib Dems come to the Borders to help with some campaigning in what I am told

“may be a challenging seat”.

In Mr Brown’s widely circulated e-mail, I believe all members were told that

“Jeremy has suggested Tuesday 30th September and would arrange some food”—

The Deputy Presiding Officer: Is this in the McLeish report? Maybe you should get back to it.

John Lamont: I am just opening up. I tell Mr Brown that I am free and am always game for some good campaigning, but I might miss Mr Purvis’s food.

Now to the subject of today’s debate: a report from the Scottish Prisons Commission. As we heard from several speakers, the commission was established to look at the purpose and impact of imprisonment in Scotland today. Today’s debate is rightly focused on the key recommendations of that report. The first is that the Government should pursue a target of reducing the prison population to an average daily roll of 5,000 and the second is that sentences of six months or less should be scrapped in favour of a community supervision sentence.

I am afraid that those recommendations and the general thrust of the report have, as stated by my colleagues Bill Aitken and Gavin Brown, confirmed our worst fears about the report. The underlying theme of the report and, it appears, Government policy, is that we should not use prisons as much as we do.

One hundred years ago prisons had hard labour and treadmills. Today they have televisions, PlayStations and DVD players. Prisons have changed, but their necessity has not. We will always have a small minority of offenders who, by their behaviour, pose such a threat to the lives and property of the law-abiding majority that they must be kept apart from the rest of us.

Robert Brown: Will John Lamont comment on the comment of his colleague Edward Garnier, the shadow minister for home affairs at Westminster, who said that imprisoning criminals is hugely expensive and not working? Will the member apply his response to short-term sentences in particular?

John Lamont: I will deal specifically with short-term sentences in a moment. If the member listens carefully, he might just pick up on it.

It would be nice to live in a society where there were no prisons, just as it would be nice if there were no hospitals because there was no illness.

However, until someone steps forward with a plan to make crime history, prisons are here to stay. The challenge is to create prisons with a purpose.

It is obvious that overcrowded prisons that are awash with drugs and a system that gives short-term prisoners limited or no supervision and support on release are almost certain to fail. However, that could be used to argue, as we do, that the prison regime should be completely transformed and a system of support put in place for offenders when they are released from jail. It is daft to argue that because short-term prison sentences are not working currently, we should stop using them altogether.

That leads me to the second worrying aspect of the report and the suggestions from the Government that it intends to interfere with sentencing policy. The role of Government should not be to decide sentencing policy but to support the courts in sentencing disposals and ensure that adequate provision exists to allow the disposals to be carried out. The judiciary must be allowed to maintain its independence, with judges and sheriffs left in charge of sentencing.

The view that the current prison crisis is somehow caused by the volume of people receiving short sentences or failing first-time offenders is simply wrong. Prison is largely the preserve of serious, violent and persistent offenders. Contrary to popular myth, our prisons simply do not contain vast numbers of non-violent, first-time offenders doing time for licence-fee evasion and motoring offences.

The case for community sentences must not be driven simply by a desire to deal with prison overcrowding, and a preference for community sentences cannot be an act of faith. In their current form, they are usually unsuitable alternatives to imprisonment, not least because they are insufficiently robust.

How do we make community sentences more robust? They should have a sufficiently punitive element to command public confidence—for example, they should be made more visible. That was mentioned by several speakers and it is something that the Government and others have spoken about repeatedly but which has yet to be delivered. New technology might allow more robust semi-custodial sentences to be developed in the future, but they should be a supplement to the sentencing options available to the courts and not a substitute for custodial sentences that a court would otherwise wish to impose. In the absence of robust community punishment, prison is and will remain the only option for most of the offenders who are currently sent there.

In addition, the Government should focus on how prisons are run, with far greater emphasis on

education, training and work to reduce reconviction rates. The role of community, faith and voluntary organisations in the prison system should be considered, and the scope and quality of drug, alcohol and mental health service provision in custody should be investigated. Furthermore, the Government should analyse ways of improving the support networks for released prisoners, to enhance their ability to choose productive lives after release.

In reality, the commission's report is nothing more than a distraction from the pressing need to reform our prisons, which are not working. The prime duty of Government is to protect the public. The SNP is guilty of dereliction of that duty. Today, we have the tragic final proof that we are living in the SNP's soft-touch Scotland. I have said it before, and I will say it again: we do not cut crime by cutting the prison population; we cut the prison population by cutting crime.

16:40

Paul Martin (Glasgow Springburn) (Lab): Like other members, I recognise that the commission report that is before us today contains many sensible recommendations that can be supported. All members have agreed that it provides a useful starting point for considering how we can best manage those who are in our prisons.

For the benefit of Robert Brown, I put it on record that Labour members support the rehabilitation of prisoners. We worked closely with the Liberal Democrats to ensure that those who were in prison needed to be in prison. However, I make it clear that our priority when developing our policies in future will be the safety of our communities. We make no excuse for that.

All too often we hear from the Cabinet Secretary for Justice about the bad and sad in our prisons—those who do not belong there and should make their way to a new career, perhaps in the construction industry, building the new Commonwealth games village or constructing the new M74 motorway extension. Apart from the fact that that is an obvious slur on hard-working men and women in our construction industry, it is becoming apparent to me that the cabinet secretary is intent on developing policy outside the chamber. If he is genuine about his proposal, which we strongly oppose, Mr MacAskill should bring it before the chamber so that we can have a genuine debate.

As other members have said, we need to know from the minister what he means by the bad and sad. Gavin Brown and others sought that information from SNP members. The cabinet secretary should give us examples and indicate which individuals would be eligible for his bad and

sad alternatives to custody scheme. Is he—as Bill Aitken suggested—referring to shoplifters, who pose a genuine threat to many communities throughout Scotland and to our economy?

What message does it send to victims of domestic violence if the perpetrators, who would have served a sentence of six months or less, are told that, thanks to the bad and sad alternatives to custody scheme that has been provided compliments of the new Government, they will no longer do so?

A number of members have sought specifics, so I will provide the chamber with a specific example that is on the public record. Recently, the boxer Scott Harrison was handed a two-month sentence for assaulting his girlfriend and a two-month sentence for assaulting a police officer. I am happy to give way to the Minister for Community Safety if he wishes to contradict me. Members of the Parliament have fought hard to make it clear that domestic violence and assaults on public workers are unacceptable; in fact, we have legislated to prevent such activity.

What message would we send to our communities and to the victims of crime if we labelled the perpetrators of domestic violence and those who commit crimes against public workers as bad and sad? Such offenders are not bad and sad, but individuals against whom our communities should be protected; offenders should not be protected by the Government. It is sad for the victims of crime that the Government is so obsessed with emptying the prisons of Scotland. Labour members will not allow the Government to pursue that policy.

The Cabinet Secretary for Justice again seeks to condition the Parliament into believing that sheriffs imprison every individual who walks through the doors of their courts. John Lamont made a powerful point on that. Many of those individuals arrive at Barlinnie prison as a last resort.

I will give another specific example. What about 18-year-old George Maxwell? He was already on bail for carrying an offensive weapon and attacked two police officers with a samurai sword while under the influence of drink and drugs, but was freed with a probation order and 260 hours' community service after the sheriff heard that he had gone teetotal. That individual and many like him would have a number of opportunities and end up in Barlinnie prison as a result of their unacceptable actions. Surely, when the Parliament is considering how to deal with knife crime, sentences such as the one that was served on George Maxwell send out completely the wrong message. The minister must answer for conditioning the public view that many of those individuals are bad and sad.

Robert Brown: I accept much of what has been said about that, but does Paul Martin accept that there is still a challenge if somewhere between 60 and 90 per cent—depending on the situation—of people who serve prison sentences come out and commit other offences only a few months later? That is the challenge about which the Parliament and Government must do something.

Paul Martin: Robert Brown fails to recognise the point—which Duncan McNeil amplified—that our communities sometimes need respite from individuals such as George Maxwell who, at 18, thinks that, under the influence of drink and drugs, it is acceptable to attack police officers in our local communities. Such actions are unacceptable. Many of those individuals have been given second, third, fourth, fifth and sixth opportunities to correct their ways, but our paramount consideration must be the safety of our communities. Of course we want to present opportunities for such individuals to be rehabilitated in our prisons, but we must also consider our local communities.

The Labour Party supports the payback schemes—Richard Simpson introduced the previous Government's reparation schemes—but payback or reparation schemes—whatever we want to call them—require significant funding. I see that the cabinet secretary is rather animated on the subject; I am happy to take an intervention from him. If the Government wants to make such schemes a priority, it must provide the necessary funding to ensure that they can be developed. They require commitment, not only from the cabinet secretary but from the Government's local authority partners in the historic—or prehistoric—concordat. What kind of commitment will they make to them? Perhaps, when we find that out, the Cabinet Secretary for Justice will be more animated.

Kenny MacAskill: I am happy to confirm that I have had an excellent meeting with COSLA, which was represented by Councillor Harry McGuigan, who is a member of Mr Martin's party and clearly agrees with the broad ethos and direction not only of the Scottish Prisons Commission but of the Government. I am glad to work with him. Mr Martin will also know that, as a result of this Government, Mr McGuigan now sits on the board of the SPS. I hope that he will thank us for that.

Paul Martin: Those are warm words but there is no action from the Government. We want it to move away from the warm words—the debates that take place in the Parliament and the friendly exchanges with local authorities. We welcome the fact that the cabinet secretary is meeting our Labour colleagues, and I am sure that there have been many constructive discussions with Harry McGuigan, but we want action—not on behalf of

the perpetrators, but on behalf of victims of crime the length and breadth of Scotland, who want real action to be taken.

Despite having a number of differences with the commission's report, we welcome it. We look forward to ensuring that the Government takes on board a number of the concerns that we have raised and to working with the commission in future.

16:49

The Minister for Community Safety (Fergus Ewing): I thank the right hon Henry McLeish for chairing the Scottish Prisons Commission and I thank the commission members. I concur with the view that various members have expressed: that we do not have enough time to do justice to the commission's report. Anyone who has read the extremely readable report cannot help but be stimulated, at the very least, about how we approach the task of addressing the future of our criminal justice system. We owe the commission a considerable debt of thanks for that piece of work. As reports go, it is extremely thoughtful, provoking and evidence based. If we take it as seriously as it merits, it will help us improve considerably not only our criminal justice system but our society.

I have listened with great interest to the points that have been raised in the debate. One of the key messages around which a consensus is perhaps struggling to escape and be expressed explicitly is that we need more effective community sentencing—that is perhaps the core of the debate. As the cabinet secretary said on Tuesday at the annual Apex Scotland lecture, community penalties offer the prospect of payback to our communities. That link has perhaps not been understood. Communities do not see community sentencing as involving or providing the possibility of payback. That needs to change.

We heard, from Robert Brown and many others—even Lord George Foulkes mentioned it, somewhat to my surprise—that 75 per cent of those who are sent to prison for under six months are reconvicted within two years, compared with a reconviction rate of only 39 per cent for those who are given community service. That is a startling statistic, but I do not recall Pauline McNeill or Bill Aitken mentioning it. I do not suggest that they did not do so because it did not suit their particular point, but the statistic is nonetheless true.

Pauline McNeill: Will the minister give way?

Fergus Ewing: I will do so in a second.

I hope that we can all accept that prison does not work in terms of preventing reoffending. The statistics clearly show that for those who are sentenced to relatively small periods of

imprisonment—we are talking not about rapists and murderers, but about those at the other end of the scale—prison is a revolving door and they are in and out repeatedly. We all accept that that is the case. If communities need respite, as Paul Martin said, it is gey short because offenders come back out and do the same thing again. I hope that we can all recognise and unite behind the notion that—

Pauline McNeill: Is the minister giving way?

Fergus Ewing: Yes, I will do so in a second.

I hope that members will agree, as I struggle to find this consensus, that community sentencing offers a better way in the long term of protecting communities because sending offenders back to jail for short periods manifestly has not done that.

Pauline McNeill: On the point on which the minister challenged me, I suggest that it is unfair to compare prison recidivism figures with those for community sentences because those who are likely to do a community sentence are not suitable for prison, so the minister is not comparing like with like. He also challenges us on the issue of consensus. I put it to the minister that there is consensus that we could do more to construct better community sentences, but I urge him not to force us—or judges—down the road of having to do that through legislation.

Fergus Ewing: I will take the latter, positive, part of that contribution rather than the former part, if I may, as a sign that there is some sort of light at the end of the tunnel and not just more tunnel, as sometimes occurs in these debates.

Rather than give specific examples of what a payback scheme would involve, I suggest that it must have three requirements. First, it must be tough for the offender—it cannot be a breeze. A payback scheme is tougher than spending time watching daytime television in a prison cell or, as the cabinet secretary said, playing pool. It is tough doing hard work and it should be tough. There should be hard work to do. More communities want to see people doing that work in their communities—for example sorting out the litter that despoils the verges of our main roads, not least in my constituency where we want the tourists to see another, tidy, Scotland as well as a safe one. Communities want that work done, and I hope that we can all agree that it is work that offenders should have to do.

Secondly, communities should have a say in determining what work is carried out in their areas. That would let them buy in, and it would address the problems that Paul Martin has described in relation to communities' concerns.

Thirdly, the activity should help the offender get their life back on track through teaching them a

new skill and providing access to support and a bit of old-fashioned routine. I heard a story about some young lads who turned up for work under a programme one morning, but they did not come back in the afternoon—they did not know that work was done in the afternoon. It can be as basic as that.

Richard Simpson was right to raise the matter of drug use. For people who have a serious drug addiction problem, short sentences are perhaps the least effective solution of all. I understand from my recent visits to various prisons that if the sentence is less than 30 days there is not time for any meaningful activity or programme to be provided. Short sentences are not only no use, they are worse than useless because they interrupt the treatment that might be going on outside the prison system.

Bill Aitken: Will the minister take an intervention?

Fergus Ewing: Certainly.

Bill Aitken: I am obliged to the minister for giving way. *[Interruption.]*

The Deputy Presiding Officer: Order. Too many conversations are going on.

Bill Aitken: Accepting that the SPS has difficulty dealing with such prisoners because of the shortness of the term that is spent in custody, how does the minister relate that to the fact that Mr MacAskill seems hell-bent on releasing many offenders after a quarter of their sentence? That would inevitably have an impact on the work that the SPS can do.

Fergus Ewing: I am too kind to allude to the fact that the Conservatives are the ones who introduced early release, thereby allowing offenders out after serving one half of their sentences. I will not mention that.

Bill Aitken's intervention gives me the opportunity to dispel a misconception that Nigel Don correctly identified. We do not have a target—nor will we accept one—of 5,000 for the desired average prisoner population. That is to misunderstand what Henry McLeish said. He said that, after his recommendations were implemented, we would be able to have a prison population level such that the people in prison are those who should be in prison—for the most serious crimes. That is the basis of that recommendation.

We are proud of our record, since coming into government, of instructing the building of new prisons. I am prepared to accept the point that Richard Simpson made: that the world did not begin when the SNP came into government—but it is now a happier place, and safer, stronger, healthier, et cetera.

Robert Brown: Tidier?

Fergus Ewing: It is not tidier yet, but it will be, after we get community sentencing on the go. I am proud that the cabinet secretary has given such a strong lead in the improvement of our prison estate. It is badly needed. It is an extremely serious point that the prison population is now at a record level. Today, it stands at 8,116, which is up from 8,098 last week. Prisoners cost the taxpayer £40,000 a year each. I thought that it was somewhat indelicate of Mr Robert Brown to point out that that is more expensive than the annual cost of an education at Eton College. Nonetheless, it is true.

David McLetchie (Edinburgh Pentlands) (Con): Would the minister like to tell us how many of those prisoners he thinks should not be in prison? Why is his judgment apparently superior to that of the judges who sentenced them to go there?

Fergus Ewing: As has been said, part of the answer to that question is undoubtedly that it is not perceived that community sentencing is as effective as it should be—although page 67 of the McLeish report shows that there is an excellent community service programme in Falkirk, which gives us an example of best practice that we can follow, as Mr Matheson has urged me to do.

There are two visions of Scotland's future: the one that Henry McLeish set out, in which prison does the job that it should do and prisoners are rehabilitated and do not reoffend on a massive scale; or the one for which some of the recidivists on the Conservative benches have argued, despite the fact that, as Mr Robert Brown pointed out, their friends down south fundamentally disagree—I presume that down south they are soft-touch Tories, as opposed to the real McCoy that we have up here. I have no doubt which vision Scotland will choose: it will be the one that Henry McLeish has set out in his excellent report.

Decision Time

17:00

The Presiding Officer (Alex Fergusson):

There are potentially six questions to be put as a result of today's business. I remind members that, in relation to the debate on the Scottish National Party Government failure on jobs for newly qualified teachers, if the amendment in the name of Fiona Hyslop is agreed to, the amendments in the names of Elizabeth Smith and Margaret Smith will fall.

The first question is, that amendment S3M-2524.1, in the name of Nicola Sturgeon, which seeks to amend motion S3M-2524, in the name of Margaret Curran, on clostridium difficile-associated disease in hospitals, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

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)
 Harvie, Christopher (Mid Scotland and Fife) (SNP)
 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)

AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)
 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)
 Brown, Robert (Glasgow) (LD)
 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)
 Finnie, Ross (West of Scotland) (LD)
 Foulkes, George (Lothians) (Lab)
 Gillon, Karen (Clydesdale) (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)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Hume, Jim (South of Scotland) (LD)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Kelly, James (Glasgow Rutherglen) (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)

The Presiding Officer: The result of the division is: For 63, Against 64, Abstentions 0.

Amendment disagreed to.

The Presiding Officer: The next question is, that motion S3M-2524, in the name of Margaret Curran, on clostridium difficile-associated disease in hospitals, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Alexander, Ms Wendy (Paisley North) (Lab)
 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)
 Finnie, Ross (West of Scotland) (LD)
 Foulkes, George (Lothians) (Lab)
 Gillon, Karen (Clydesdale) (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)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Hume, Jim (South of Scotland) (LD)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Kelly, James (Glasgow Rutherglen) (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)
 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

Brown, Robert (Glasgow) (LD)
 Pringle, Mike (Edinburgh South) (LD)

ABSTENTIONS

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)
 Harvie, Christopher (Mid Scotland and Fife) (SNP)
 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 62, Against 2, Abstentions 63.

Motion agreed to.

That the Parliament notes with deep concern the outbreak of *Clostridium difficile* at the Vale of Leven Hospital; considers the report from the independent review team to be a helpful starting point but believes that there are still serious questions to be addressed; notes the referral of the report by the Cabinet Secretary for Health and Wellbeing to the Crown Office and Procurator Fiscal Service to consider what action should be taken; recognises and supports the substantial case made by the families of *Clostridium difficile* victims for a public inquiry; notes that the Scottish Ministers can instruct such an inquiry under the Inquiries Act 2005 and acknowledges the need for wider lessons to be learned throughout the NHS in Scotland in preventing and tackling *Clostridium difficile*, and therefore calls on the Cabinet Secretary for Health and Wellbeing to return to the Parliament to make a statement when the views of the Crown Office and Procurator Fiscal are known.

The Presiding Officer: The next question is, that amendment S3M-2525.3, in the name of Fiona Hyslop, which seeks to amend motion S3M-2525, in the name of Rhona Brankin, on the SNP Government failure on jobs for newly qualified teachers, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Ahmad, Bashir (Glasgow) (SNP)
 Allan, Alasdair (Western Isles) (SNP)
 Brown, Keith (Ochil) (SNP)
 Campbell, Aileen (South of Scotland) (SNP)
 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)

Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 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)
 Kidd, Bill (Glasgow) (SNP)
 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)
 McKee, Ian (Lothians) (SNP)
 McKelvie, Christina (Central Scotland) (SNP)
 McMillan, Stuart (West of Scotland) (SNP)
 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)
 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)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 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)
 Brocklebank, Ted (Mid Scotland and Fife) (Con)
 Brown, Gavin (Lothians) (Con)
 Brown, Robert (Glasgow) (LD)
 Brownlee, Derek (South of Scotland) (Con)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Carlaw, Jackson (West of Scotland) (Con)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Margaret (Glasgow Baillieston) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Foulkes, George (Lothians) (Lab)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Goldie, Annabel (West of Scotland) (Con)
 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)
 Johnstone, Alex (North East Scotland) (Con)
 Kelly, James (Glasgow Rutherglen) (Lab)
 Kerr, Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)

Lamont, John (Roxburgh and Berwickshire) (Con)
 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)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McInnes, Alison (North East Scotland) (LD)
 McLetchie, David (Edinburgh Pentlands) (Con)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 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)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland) (LD)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Elizabeth (Mid Scotland and Fife) (Con)
 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)

ABSTENTIONS

MacDonald, Margo (Lothians) (Ind)

The Presiding Officer: The result of the division is: For 49, Against 77, Abstentions 1.

Amendment disagreed to.

The Presiding Officer: The next question is, that amendment S3M-2525.1, in the name of Elizabeth Smith, which seeks to amend motion S3M-2525, in the name of Rhona Brankin, on the SNP Government failure on jobs for newly qualified teachers, be agreed to.

Amendment agreed to.

The Presiding Officer: The next question is, that amendment S3M-2525.2, in the name of Margaret Smith, which seeks to amend motion S3M-2525, in the name of Rhona Brankin, on the SNP Government failure on jobs for newly qualified teachers, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 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)
 Brocklebank, Ted (Mid Scotland and Fife) (Con)
 Brown, Gavin (Lothians) (Con)
 Brown, Robert (Glasgow) (LD)
 Brownlee, Derek (South of Scotland) (Con)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Carlaw, Jackson (West of Scotland) (Con)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Margaret (Glasgow Baillieston) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Foulkes, George (Lothians) (Lab)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Goldie, Annabel (West of Scotland) (Con)
 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)
 Johnstone, Alex (North East Scotland) (Con)
 Kelly, James (Glasgow Rutherglen) (Lab)
 Kerr, Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollak) (Lab)
 Lamont, John (Roxburgh and Berwickshire) (Con)
 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)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McInnes, Alison (North East Scotland) (LD)
 McLetchie, David (Edinburgh Pentlands) (Con)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 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)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland) (LD)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)

Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Elizabeth (Mid Scotland and Fife) (Con)
 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)
 Allan, Alasdair (Western Isles) (SNP)
 Brown, Keith (Ochil) (SNP)
 Campbell, Aileen (South of Scotland) (SNP)
 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)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Harvie, Christopher (Mid Scotland and Fife) (SNP)
 Hepburn, Jamie (Central Scotland) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Adam (South of Scotland) (SNP)
 Kidd, Bill (Glasgow) (SNP)
 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)
 McKee, Ian (Lothians) (SNP)
 McKelvie, Christina (Central Scotland) (SNP)
 McMillan, Stuart (West of Scotland) (SNP)
 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)
 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)

ABSTENTIONS

Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 MacDonald, Margo (Lothians) (Ind)

The Presiding Officer: The result of the division is: For 77, Against 47, Abstentions 3.

Amendment agreed to.

The Presiding Officer: The next question is,

that motion S3M-2525, in the name of Rhona Brankin, on the SNP Government failure on jobs for newly qualified teachers, as amended, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 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)
 Brocklebank, Ted (Mid Scotland and Fife) (Con)
 Brown, Gavin (Lothians) (Con)
 Brown, Robert (Glasgow) (LD)
 Brownlee, Derek (South of Scotland) (Con)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Carlaw, Jackson (West of Scotland) (Con)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Margaret (Glasgow Baillieston) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Foulkes, George (Lothians) (Lab)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Goldie, Annabel (West of Scotland) (Con)
 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)
 Johnstone, Alex (North East Scotland) (Con)
 Kelly, James (Glasgow Rutherglen) (Lab)
 Kerr, Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lamont, John (Roxburgh and Berwickshire) (Con)
 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)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McInnes, Alison (North East Scotland) (LD)
 McLetchie, David (Edinburgh Pentlands) (Con)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 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)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland) (LD)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Elizabeth (Mid Scotland and Fife) (Con)
 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)
 Allan, Alasdair (Western Isles) (SNP)
 Brown, Keith (Ochil) (SNP)
 Campbell, Aileen (South of Scotland) (SNP)
 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)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 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)
 Kidd, Bill (Glasgow) (SNP)
 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)
 McKee, Ian (Lothians) (SNP)
 McKelvie, Christina (Central Scotland) (SNP)
 McMillan, Stuart (West of Scotland) (SNP)
 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)
 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)

ABSTENTIONS

MacDonald, Margo (Lothians) (Ind)

The Presiding Officer: The result of the division is: For 77, Against 49, Abstentions 1.

Motion, as amended, agreed to.

Resolved,

That the Parliament notes with concern the recent *Times Educational Supplement Scotland* and General Teaching Council for Scotland surveys showing an increasing number of post-probationary teachers who are unable to secure a permanent teaching post; believes that this development represents an appalling waste of talent and is grossly unfair to those newly-qualified teachers encouraged to train to join the profession; further notes that this comes at a time when many class sizes are rising highlighting that the SNP's manifesto commitment to reduce class sizes to 18 in P1 to P3 is in utter chaos, with insufficient funding, a lack of a legal framework and the omission of the policy from 21 out of 32 local authorities' single outcome agreements, and calls on the Cabinet Secretary for Education and Lifelong Learning to make a ministerial statement on this subject as soon as practicable following receipt of the report of the Teacher Employment Working Group.

Family Law Disputes

The Deputy Presiding Officer (Trish Godman): The final item of business is a members' business debate on motion S3M-1839, in the name of Nigel Don, on family law disputes. The debate will be concluded without any question being put.

Motion debated,

That the Parliament recognises that current arrangements for settling family law disputes could be improved and that current law still discriminates against parents who are not married; notes that parents can find it difficult or impossible to enforce contact orders where the other parent is unco-operative and that disputes where broken families live in more than one jurisdiction within the United Kingdom are unnecessarily difficult to resolve; further notes that these issues are particularly relevant due to recent cases in the north east; encourages current moves by Scotland's legal profession towards collaborative dispute resolution, and notes with interest the new system of less adversarial trials being developed in Australia.

17:08

Nigel Don (North East Scotland) (SNP): I welcome to the debate members—I am grateful to see so many—and interested visitors in the public gallery. The motion is about how parents are allowed to resolve their differences when a family breaks down. I will highlight issues that cause huge resentment and describe an area in which the law and the courts are in danger of being ignored.

When families break up, I am glad to say that most parents agree on the care of the children, visits by the absent parent and all other matters that concern residence and contact. However, in a minority of cases, the situation is different. Extreme animosity or allegations of violence and abuse might be involved, or the parents might have such different ideas about what is best for the family that they cannot reach a settlement. That is why we need a proper family law framework and the means to enforce it.

The Children (Scotland) Act 1995 and the Family Law (Scotland) Act 2006 define parental responsibilities and the right of parents who do not live with their children to have contact. The 2006 act deals with unmarried fathers, but only those whose children's births were registered after 2006. The unmarried fathers of children who were born before then still have no automatic parental rights. That is a consequence of the difficulties in drafting acceptable retrospective legislation. However, an unmarried father has the opportunity to ask the court to acknowledge his parental rights.

I think that we would all agree that contact orders should be in the best interests of the child, which is what the law requires. We might not,

however, agree what the best interests of the child are; it takes a skilled and experienced sheriff with a good understanding of family law to reach the best decision.

A recent study showed that sheriff clerks did not see the enforcement of contact orders as a particular problem. However, I suspect that I am not the only MSP to have been contacted by non-resident parents—usually fathers—who say that enforcing a contact order can be difficult. If the parent—often, but certainly not always, the mother—simply refuses to comply, it is hard to find effective remedies. The same study quotes a sheriff clerk who says:

"Sheriffs are reluctant to take action against a mother who flatly refused to obey a court order, with the case continued in the hope that she will eventually do so."

I am told that legal practitioners commonly hold the view that contact orders are difficult to enforce, and I find the conclusions of the research frankly surprising. I acknowledge, for the record, that there are cases in which it is the absent parent who is negligent in carrying out their part of the contact order. There is no question of wrong always being on one side in such matters.

It is also not unknown for separating parents to ignore the law. I wonder whether, sometimes, solicitors and courts are so fixated on the phrase "the best interests of the child" that they deny parents who have done nothing wrong natural justice.

This week, my constituent—I refer to him only as my constituent in order to preserve his daughter's anonymity—won a stunning victory in the Court of Session. Seven years ago, my constituent's wife unlawfully removed their child and took her to England. She did not let my constituent know her address and, worse, she falsely accused him of domestic violence and obtained the help of the local police and social work department, who seemed all too ready to believe her allegations. An English court then granted my constituent's estranged wife the right to live, with her child, in England. My constituent was not even told about the hearing. However, he found out where the child was going to school and went to see her, only to be arrested at the school gate.

No one wished to believe that my constituent was the person who had suffered the wrong. No one seemed prepared to accept that uprooting the child from her home in the north-east and denying her contact with her father and the extended family might not be in her best interests.

My constituent has now demonstrated that the English court acted without jurisdiction, that sheriffs erred in law, that his daughter was unlawfully abducted and that an unlawfully abducted child does not become resident in

another country simply because she has been kept there for a year or longer. His divorce proceedings will now return to Aberdeen sheriff court, which will have some very difficult decisions to make. I hope that there is no difficulty in persuading English courts to relinquish jurisdiction, but that is yet to be seen.

One of the most remarkable things about the case was that my constituent represented himself before three judges in the Court of Session. He had to, because he could find no advocate able to take the case on. His persistence and—yes—his burning sense of injustice have helped to clarify the law, and I think that he deserves our thanks. I also give my personal thanks to Councillor Jimmy Black, a member of my staff, who has been assisting my constituent in the matter.

Sadly, my constituent's case is not unique. I met a distinguished family lawyer who told me that taking a child across a border can be an effective tactic. She said that although she would not advise someone to do that, it seems to work—at least, until now. I point out that it happens the other way around, as well. A glance at the internet turns up cases of parents in England complaining that their partners have come to Scotland to avoid the reach of the English courts.

How do we learn from my constituent's experiences in relation to cross-border jurisdictions and the ready presumption against fathers? I hope that the minister will address those issues in his closing remarks and, perhaps, subsequently.

If we do not want more such cases, in which there is a complete breakdown of the relationship, early resolution of family disputes is essential.

I recognise the Government's commitment to family mediation, and I commend the solicitors in Scotland who are developing the new concept of collaborative law, under which solicitors for the parties sort things out on the strict understanding that neither side will go to court. The position regarding legal aid for collaborative law is unclear. Perhaps that should be clarified, as the approach will save money overall.

I also note that mediation services are often funded from several different sources and are particularly vulnerable to fluctuations in funding, which is hardly the basis on which to build such an important part of our social service.

If it is true that the contact orders that courts make are widely ignored, we need to address that. It is not acceptable for one parent to make an unfounded accusation of violence or abuse against another and simply ignore a court order.

I recognise that such cases are always difficult, and there will be circumstances when court action

is inevitable because animosity is persistent. The way forward is to promote methods of securing agreement between separating parties as early and as swiftly as possible. That is what mediation and collaborative law are all about.

17:15

Mary Mulligan (Linlithgow) (Lab): I congratulate Nigel Don on securing the debate. This is an issue that I and many other members feel strongly about. As a former member of the Justice 1 Committee—I see that Margaret Mitchell, another former member, is here too—which scrutinised the bill that became the Family Law (Scotland) Act 2006, I welcome the debate, as the issue took up a great deal of committee time during the previous session of Parliament.

The issue of contact arrangements is complex, and although none of us can do it justice in the time that we have, I welcome the opportunity that Nigel Don has given us. During evidence sessions on the Family Law (Scotland) Bill, I heard many reasons why children did not have contact with both parents. Some reasons were good, and some certainly were not.

The good reasons included domestic abuse—and I would like to thank Scottish Women's Aid for its input to the Family Law (Scotland) Act 2006 and its briefing for tonight's debate. The organisation is right to say that contact arrangements should never put a child or the resident parent at risk of abuse. I support its continuing interest in enforcing contact when a parent fails to take an interest or to show up for contact arrangements.

Our response should be like Nigel Don's response: to make the interests of the child central. I hope that other members agree that in the majority of cases that means contact with both resident and non-resident parents. That is much easier to say than to deliver: following a relationship breakdown, perfectly reasonable people can unfortunately act unreasonably, so there is a role for the courts to issue directions on contact.

One way of providing for contact is through contact centres. After the Family Law (Scotland) Act 2006 was passed, I was pleased to take on the role of reporter to the Justice 1 Committee. I visited contact centres in Hamilton and Peterhead and was able to speak to some of the parents involved. I saw and heard the benefit of contact centres, but my report highlighted the fact that some areas did not have one; that in those areas that did, the centre was struggling to meet demand and provide a flexible service; and that funding was always an issue.

Despite the cross-party support for the report, the Scottish National Party Government has not taken any action so far on those challenges. I wonder whether the minister will tell us something more this evening. I said that resolving contact issues is complex, but the Justice 1 Committee put forward a suggestion to assist by establishing the role of court facilitators. We recognised that their role of overseeing contact orders needed to be worked out, so the then Minister for Justice, Cathy Jamieson, agreed to a pilot. Unfortunately, Mr MacAskill scrapped the pilot without making any alternative suggestion. We still await an alternative. I hope that the minister will be able to fill us in this evening.

I recognise that contact with grandparents is also a difficult issue. The Grandparents Apart group has done much to promote that, and I believe that if we resolve the problems between parents, we will go some way to reduce the problems for grandparents.

I believe that collaborative dispute resolution is a way forward; I spoke to lawyers in Aberdeen who told me how it could work. We need to invest in that. Mediation is an option, although it should never be forced on people. I hope that ministers will provide time for the Parliament to discuss such issues in more detail. Tonight is a beginning, and I hope that we will hear some suggestions.

17:19

Willie Coffey (Kilmarnock and Loudoun) (SNP): I congratulate Nigel Don on securing this evening's debate on an important and in many cases heartbreaking subject.

If there are no problems with child contact, why are representations continually made by distraught families? Many of the people who contact me are dads and grandparents who are losing contact with kids. On the other side, I see mothers who are struggling to do what they see as right by their children. At first sight, the law appears to cover all the angles and the guiding principle of making decisions in the best interests of the child is correct, but real problems that require the Parliament's attention remain.

Some of us in the chamber will have experienced at first hand the pain that is caused when a parent suddenly and apparently without justification prevents further contact between a child and others in the wider family. I am certain that when there is a justifiable cause for that, such as violence or alleged violence, the law must protect the mother and the children from any risk, but what happens when there is no such cause and contact is prevented simply because of a disagreement between the families? In some cases, the child is used as a weapon in a dispute

between the parents, or even a dispute between generations. We need to pay closer attention to such cases.

To date, my advice has been that the courts are there to resolve matters, but most parents and grandparents do not have the means to raise expensive court actions, so broken relationships deteriorate even further and, worst of all, the children suffer. Mediation helps, but both parties have to be willing to attend and to build bridges. If one party simply refuses to attend, we are no further forward.

Do we have a problem, or are such cases easily dealt with by the system that we have? Given my experience of cases that have come to me from parents and grandparents alike, and given the interest that is being shown by members and those in the public gallery tonight, I suggest that we do indeed have a problem to address.

What is the answer? I stress again that my comments relate to cases in which a parent prevents contact with a child for no apparent and justifiable reason. Surely we could have a mechanism whereby a complaint could be made, perhaps to a mediation service, that would at least trigger an interview or discussion. If necessary and if requested, the two sides of the argument could be presented separately so that an assessment and some recommendations could be made. That would help us to identify the type of cases that I am talking about and help to resolve disputes before they escalate.

Such a triggering interview would give people an opportunity to put their complaint on the record and it would mean that a case for preventing contact would also have to be stated and placed on the record. The recommendations that would be made would surely encourage both sides to focus on the best interests of the child and move away from the destructive path of continued dispute. The approach would offer a useful step—and one that is not in place at present—to help us recognise and deal with such cases.

The issue is too important to remain unaddressed. I hope—and am confident—that the cabinet secretary will consider it.

17:23

Margaret Mitchell (Central Scotland) (Con): I, too, congratulate Nigel Don on bringing his important motion to the Parliament for debate this evening.

Family break-ups, separations and divorce are never easy and they impact particularly on the children of the relationship or marriage, even when the break-up is amicable and happens by mutual consent. When there is a dispute and acrimony,

the effect on the children is harrowing and potentially deeply damaging. That is especially true when, as all too frequently happens, children become mere pawns in the dispute and one or both parents are intent on point scoring and being as awkward as possible.

The motion highlights some of the problems that arise. In some cases, one parent wilfully withholds contact with the children by the non-resident parent. In extreme cases, a parent unilaterally moves a child to another jurisdiction. I am pleased that the question of jurisdiction was moved forward yesterday by the judgment in the Court of Session involving the case of Mr B from Aberdeen, who had no contact with his daughter for seven years after she was taken to live in England when she was only three years of age. The ruling of the three law lords clarified the principle of jurisdiction in the question of which court can make a judgment when a child is unlawfully taken to live in a different part of the United Kingdom, thus depriving the other parent of contact.

The logistical problems of trying to maintain parental contact when large distances are involved might remain, but the judgment is a positive step forward that will be widely welcomed by all those who have experienced such trauma.

How best to deal with family disputes is a hugely complex question to which there are no quick fixes. One solution definitely does not fit all. A good starting place is the points of agreement: that the current situation could be improved; that any arrangements to manage and resolve such disputes should be child centred; and that, as the Scottish Women's Aid briefing for tonight's debate states, it is important that children have meaningful and supportive relationships with both parents.

The welfare of the children when a relationship breaks up is at the heart of the Family Law (Scotland) Act 2006. During the scrutiny of the bill, various measures were considered in an effort to ensure that parents, despite any differences that they might have, are united in and focused on the child's upbringing and future. Parenting orders were encouraged as a means of achieving that objective, along with the ideas of co-parenting and quality parenting time. How that is managed and achieved will depend on individual circumstances, but one hopes that it involves co-operation and getting the parents to think about the needs of the child, including the need to maintain a formal relationship with both parents.

There is certainly a place for collaborative dispute resolution, but when there is a history of domestic abuse any arrangement that is aimed at resolving the dispute must take that into account and ensure that the safety of neither the abused parent nor the child is compromised. In such

situations, there is a definite place for parental contact being maintained through supervised contact centres. I pay tribute to Mary Mulligan's work in that regard.

The limited time available for tonight's debate does not permit the in-depth discussion that the motion merits, but I will conclude by stating that although I do not necessarily agree with all the assertions in the motion, I recognise and applaud the positive approach to family disputes that it seeks to promote.

17:27

Robert Brown (Glasgow) (LD): Nigel Don has raised a substantial and pertinent issue and, as others have done, I congratulate him on the way in which he has done that. I declare an interest as a member of the Law Society of Scotland and as someone who dealt with quite a lot of matrimonial law when in practice. I am conscious that that was a little while ago, so my experience is probably a bit rusty.

An important point that has been made is the need to get agreement between the parties as early as possible. The sooner such things are resolved, the less likely it is that there will be difficulties further down the line: the more acrimonious the separation, the more likely it is that issues of child contact and upbringing will be dragged in.

We should distinguish between the situation in which a court has made an order that people do not like—obviously, there may be issues about that—and the situation in which a court has made an order that one party will not accept or agree to or obtemper. The two situations raise different sorts of issues.

There is much talk about rights. The part of the motion that I am least happy with is the claim that unmarried parents are discriminated against. The Law Society briefing states that it does not regard that as a significant issue in practice, and I agree with that. In any event, it should be remembered that the extent of the contact with the child in such situations is not uniform and can range from close parental contact in the case of long-term relationships to—in situations in which the child has resulted from a more casual encounter—no paternal relationship with the child. What should count as the priority in every situation should be the best interests of the child. That should be the starting point for analysis of what to do in any factual dispute that arises.

That said, it is—as others have argued—generally regarded as being in the child's interests to have a relationship with both parents. I can say emphatically from professional experience and beyond, that in a minority of situations, that is not

desirable because of the abusive or manipulative attitude of one parent or, sometimes, of both parents. I agree entirely with Scottish Women's Aid that domestic abuse is neither a dispute nor a matter for resolution, at least in the context in which the issue is being discussed.

Real challenges arise when it is manifestly appropriate that the child should reside with one parent—more often than not the mother—but that parent adamantly refuses to allow contact with the other parent. Sanctions are available, up to and including imprisonment for contempt of court, but whether it is desirable to use those sanctions is the challenge that faces sheriffs and judges. In many such cases, one needs to consider whether it is seriously a practical proposition to lock up the custodial parent, with all the difficulties that that would bring about.

A number of cases cannot be resolved satisfactorily. Hard cases make bad law, even under the threat of court sanction. That does not mean that we should not try to use collaboration and mediation to help parents to resolve their differences in as many cases as possible. We should use the power and sanction of the court to bring about resolution and to warn people about the difficulties of not obeying court orders. That would be helped by changing wider social attitudes that stress the importance to children of both the parents, grandparents and other extended family; by using the grandparents code, which was touched on earlier, and which was developed during the previous parliamentary session; by couple counselling and by family mediation. The situation would also be helped if family law solicitors took a constructive attitude. An adversarial approach is not usually helpful: in fairness, the solicitor more often than not plays a valuable role in restraining the excesses of hostility in the client—I hear Christine Grahame agreeing with me—and in helping to focus them on adopting a more reasonable approach.

The motion refers to problems within the United Kingdom. The challenge is worse when a child moves with one partner to live in another European Union country or beyond. That can often mean that the intention of the original court order is thwarted. The minister might be able to give the chamber some insight into the potential for improving the resolution of cross-border disputes, but it will continue to be a difficult issue.

The motion raises a highly pertinent and complex theme with a lot of issues. I again thank Nigel Don for lodging it.

17:31

Christine Grahame (South of Scotland) (SNP): I endorse much of what Robert Brown

said. I was a family lawyer for 12 years. I acknowledge his professional expertise and that of the Cabinet Secretary for Justice.

This is a difficult area of the law and we have to tread carefully because there are no simple answers in the hard cases, as my legal colleagues will know. We are dealing with heightened human emotions: people are irrational and are sometimes not open to discussion or to advice that is sincerely given to calm things down.

Most relationship break-ups are not a two-way street; one party decides that the relationship is at an end and, although they might feel guilty, they feel liberated. They might be moving on to someone else, which certainly exacerbates the break-up. The other party feels betrayed, angry, hurt, rejected, bitter, revengeful and tearful and might do things they have never done in their life before, like throwing flowerpots around the garden, breaking down doors or screaming in the street. Such difficult cases are about people on the edge, and the children are in the middle of it all.

In such circumstances, contact orders can often be a battleground and there can be a vendetta. Sometimes, grandparents can be the only anchor of certainty in children's lives. However, in my experience, some grandparents can compound the situation and stoke the fire by saying things like, "You should never have gone with him in the first place, dear." Then there is the bar-room lawyer, who has read something in the *Sunday Mail* and gives off-kilter advice about what people should say to their lawyers. This can all happen to a person who is in great personal difficulty.

The uncertainty of people's lives can be compounded by the fact that their house might have to be sold, or their job might be gone, and their support is gone. People are under a great deal of emotional pressure, so there is the law. However, because of human nature, it can be hard to help people in such circumstances.

To be blunt, if a party wants to make it difficult for the other party to have contact with the child, they can—I even had a case in which there was a false accusation of sexual abuse by a father. Once that is put into the pot, it can almost never be unravelled. All kinds of things happen. The parent does not get near the child during the inquiries, months and months pass and, if the child is young, they begin to lose contact with that parent as a matter of course. It is devilishly difficult to deal with.

As Robert Brown quite rightly said, if a court order is not obtempered, what sheriff or judge wants to bring the parent to court and to fuel the fire by threatening imprisonment? Believe me—I have seen sheriffs trying everything under the sun,

from the carrot to the stick and everything else, to make court orders operate.

We try to tell parties that the relationship will move on, the children will move on and things will change. The child might have half-siblings. Although there is no such thing as mediation if it is not consensual, if it is possible, mediation should be tried as soon as it is possible. However, with some parties, it will have to continue for a very long time. The only thing that every good family lawyer has ever said is, "You can fight about the property but, for goodness' sake, don't fight about the children." There is no winner when that happens, and the people who lose are the children of the relationship.

Had I time, I would have touched on contact centres, which in my experience are pretty grim places. The most-used contact centres that I know of are the McDonald's restaurants where dads used to take their children on wet afternoons. That has to change.

17:35

Lewis Macdonald (Aberdeen Central) (Lab): I congratulate Nigel Don on securing the debate and I welcome the opportunity to address issues around disputes over the jurisdiction of courts in the different parts of the United Kingdom—without, on this occasion, wishing to comment on the wider issues that are raised by the terms of Mr Don's motion. I am certain that there will be further opportunities in the not-too-distant future to discuss some of those concerns.

Respect for the authority of the courts over contact with children in the event of family breakdown is essential if the courts are to deliver on their principal duty, which is to protect the welfare of the child. To achieve that, it is important that courts are clear and consistent in dealing with issues of jurisdiction.

The case that has been highlighted is one with which I am familiar and one in which the issue of jurisdiction has still not been resolved to the satisfaction of all concerned. The most important consequence is that the focus of legal proceedings, over a number of years, has been not on the welfare of the child, but on the jurisdiction of the courts.

The legal position is essentially unchanged from that which is set out in section 41 of the Family Law Act 1986, which provides that a child who is removed from his or her area of habitual residence by one parent without the consent of the other parent should continue to be treated as resident in the original jurisdiction for a year. The difficulty in the case in question has arisen because of the apparent failure of a court in England to take that legal provision into account, which led to a court

order being issued in England in a case that ought, at the time, to have been dealt with in Scotland.

The fact that Scots law operates separately from the law of England and Wales, with no common court that has oversight to resolve uncertainties, means that in a case of that kind it is very difficult to find the means to challenge a court that assumes jurisdiction to which it may not be entitled. For that reason, the case has been raised with both the Lord Advocate and the Lord Chancellor. It has been the subject of correspondence on several occasions, over a number of years, between justice ministers in both the UK and Scottish Governments. It has, indeed, been the subject of parliamentary debate prior to this evening, as many of the issues were raised last year in the House of Commons by my colleague, Frank Doran MP, on behalf of his and my constituent.

As has been mentioned, due process in the Scottish courts has found that jurisdiction in this case properly belongs to the Scottish courts, in spite of the views that were previously held by lower courts in Scotland that they were entitled to cede jurisdiction to courts elsewhere. The English courts system has yet to reach a final view.

It is clearly not for MSPs to take a view on what may or may not have occurred in a relationship, or even on which court is right in law. Our concern must be with how such issues of jurisdiction can be more speedily resolved. That matters not as an obscure point of law, but because a failure to resolve such issues simply distracts attention from the issues of substance in a case of this kind, which are issues around the welfare of the child that include, but are not confined to, issues of residence and contact.

Along with other members, I look forward to hearing from the minister how ministers and law officers in the various parts of the UK can work together constructively to ensure that issues of jurisdiction can be more speedily resolved so that the appropriate court is able to deal more quickly and effectively with the consequences of family breakdown, thereby protecting the interests of the child.

17:39

Robin Harper (Lothians) (Green): I, too, congratulate Nigel Don on securing this very important debate. Having worked on the children's panel and having had, like many members, experience on the cross-party group in the Scottish Parliament on children and young people, I am well aware of the issues that have been raised.

I am not that surprised by the remarkable consensus on the importance of mediation. When children get caught up in the legal process, they must find its adversarial nature mystifying and certainly threatening.

I am grateful to the newly formed community law advice network for providing me with a briefing on its research into the law and young people, which

“indicates that there is an identified need to make law more easily accessible so that people can obtain the legal advice they require.”

According to the briefing, the research’s key findings are that

“People were aware that legal advice and information was readily available from solicitors or lawyers. However ‘there was a resistance by respondents to approach these sources due to the perceived cost’.”

and that

“The growing complexity of the law can be daunting to ordinary people. It can make the law and the legal systems appear inaccessible and remote except to a few experts or those rich enough to employ them to such an extent that ordinary citizens are deterred from seeking remedies to vindicate their civil rights and feel that they have no ownership of the legal system in respect of those rights.”

The community law advice network’s briefing then says:

“Apart from the general evidence that indicates a need to provide legal services in a more accessible way, there are specific considerations that require to be taken into account in relation to how children access the law.”

In England,

“Substantial research has been undertaken by Youth Access, an organisation supported by Legal Services Commission, for young people’s information, advice, counselling and support services. One of the results of their research has been the piloting of Youth Access Law Centres in England.”

I am sure that that aspect been drawn to the Cabinet Secretary for Justice’s attention. In any case, I recommend that he investigates those possibilities a bit further.

The briefing then outlines Youth Access’s research, which

“investigates the needs of children and young people up to the age of 25 years. Key findings”

so far

“include:

- The few civil legal aid providers that target young people tend to spend longer on cases, but achieve substantially better case outcomes for younger clients than other providers
- Young people are less likely to obtain good professional legal advice than other age groups
- Young people tend to have relatively low awareness of their rights and responsibilities, or of how to resolve their problems

- Young people prefer to access legal advice in multi-disciplinary, holistic youth provision eg a youth advice centre”.

Young people also have

“a marked preference for face to face advice”

and, oddly enough,

“they are less likely than other age groups to access advice and information by telephone or via the internet”.

That is certainly an interesting result of the research, another key finding of which is that

“Young people state a preference for getting legal advice from either youth workers with good legal knowledge or advisers specialising in working with young people”.

I ask the cabinet secretary to respond in his summing-up to those research findings. Again, I thank Nigel Don for allowing us to debate this matter—and in this particular tone.

17:43

Keith Brown (Ochil) (SNP): I thank Nigel Don for his motion, which I was happy to support when it was first lodged, and for the eloquent and reasoned way in which he set out his case. Since last May, I, like many other members, have received a number of representations from constituents who have expressed concerns about this issue from various perspectives. I should say, though, that those representations have focused less on the question of jurisdiction than on equality of treatment with regard to married and unmarried parents and the enforcement of contact orders.

As someone who has in the past week or so been accused of lacking experience in certain areas, I find it somewhat intimidating to follow other members who have been involved in passing legislation on this matter, or who have previously practised family law. However, there is also a virtue in bringing a fresh eye to such matters.

I do not disagree with members’ comments about the difficult and complex nature of such cases and with the observation that, at a time when emotions are running high, it is very hard to focus people’s attention on the child’s interests. However, we cannot stand back from the consequences that have been presented to us simply because there are extreme difficulties. If we have evidence that the rights of individuals are being left behind or ignored, as the motion and the examples that Nigel Don gave suggest, the law must be examined. Of course everybody wants mediation to happen where it can, and the collaborative initiatives that have been talked about are welcome, but in the final analysis, if the law is not working in the interests of everyone involved and is not protecting everyone’s rights, it must be looked at.

Robert Brown knows far more than I do about the sanctions relating to contact orders that are available to the courts, but the representations that I have received suggest, for reasons that Robert Brown and Christine Grahame mentioned, that there is little evidence that the courts are willing to impose penalties. Sometimes that may be for obvious reasons. For example, in whose interest would it be in such circumstances to imprison a parent? However, if a parent wilfully ignores a contact order that a court has made, we must acknowledge that the other parent's rights have been trampled on. If we accept that the interests of the child must be at the centre of things, we must accept that the rights of one of the child's parents not being respected cannot be in that child's interests.

It is obvious that when a parent with custody of a child breaks a court order for access, there will be no quick resolution to the problem, and usually no penalty will be imposed on that parent. The parent without custody of the child must then go through the courts again and engage in what can often be a long drawn-out and expensive process—it can also be emotionally trying, as has been mentioned. Obviously, that can have an effect on parents' relationships with their children.

Lewis Macdonald rightly spoke about many of the legal issues in the background of the main case that Nigel Don highlighted. However, as far as I can determine, the simple fact is that a parent was deprived of access to their child for seven entire years and was falsely accused of a fairly horrendous crime. That is the information that I have. If that can happen, the law must be examined.

In the case of unmarried parents, schools and other authorities often advise the parent who has custody of the child on issues relating to the child, but the other parent is not advised. I also understand that the non-resident parent is not advised of children's panel issues.

There are issues, and it is right that, for the reasons that Nigel Don gave, a legal resolution to such problems should at least be considered.

17:47

The Cabinet Secretary for Justice (Kenny MacAskill): I, too, thank Nigel Don for raising the important issues of family law and the support that is offered to families in difficult times. A remarkable number of measured speeches have been made, and the debate has been excellent. Members recognise the importance of the issues, the complexity of the area and the tragedies that befall individuals.

Thankfully, it appears that relatively few people are suffering as a result of the problems that have

been raised. That said, the pain and grief for such people and the consequences for them and their children can be significant. Equally, I am conscious that, although we have a system of laws that is supposed to represent justice, law is sometimes the enforcement of rules and justice is not served. The Government and the Parliament must seek to minimise the number of cases in which that happens and alter things where we can, but occasionally the law fails to deliver justice. However, as Robert Brown correctly said, hard cases make bad laws. What a sheriff or judge should do in some cases would almost defeat the wisdom of Solomon. Should they imprison somebody and put a child into care? Should they put a child into the care and residence of a parent to whom the child refuses to go? Such matters are difficult.

Like other members, I have legal experience. From my experience of 20 years as a defence agent, I understand the difficulties that sheriffs face in difficult cases. We should not undermine the need for the law to be enforced so that it is not brought into disrepute, although tragedies will befall individual parents as a result. Equally, as the father of two boys, I understand the pain and sorrow that many individuals suffer.

The Government is committed to supporting families through its funding for family support organisations and supporting research to ensure that the law is kept up to date. We are committed always to improving the law. There have been considerable changes since Robert Brown, Christine Grahame and I ceased practice.

I have great sympathy for parents who wish to play an active role in their child's life but who, for whatever reason, cannot do so. Grandparents also lose out in many instances, when they have a great deal to contribute. I will always remember the tragedies that I have heard about from teachers who could not speak to a parent because of a direction from the other parent, with whom the child lived. The teachers lamented that, particularly when they had many kids in whom no parent took an interest. Those are genuinely tragic cases.

In cases in which a court order has been breached, the sheriff can be asked to consider the circumstances and he can fine or imprison a person for breaking the order. However, the proverbial nuclear option may serve the interests of no one, least of all the interests of the child. The Minister for Community Safety has written to the president of the Sheriffs Association to seek a meeting on the issue. We will continue to monitor the matter and consider what we can do.

On cross-border issues, members will appreciate that I cannot comment on the circumstances of individual cases, but I appreciate

that some disputes go on for many years and that manifest injustices can take place. We must try to address that.

I encourage parents who experience problems in their relationship to seek help at an early stage. As Christine Grahame and others said, many organisations are available—not simply lawyers who are expert in family law—including Relate Scotland, Scottish Marriage Care, and Citizens Advice Scotland. It is much better if issues can be resolved without the law.

Robin Harper: Does the cabinet secretary agree that there is a paucity of specialised legal services that are aimed at helping children?

Kenny MacAskill: There are a growing number of specialists in child law. Also, we have facilities in Scotland such as curators ad litem, safeguarders and a variety of other measures. I would not wish to be responsible for the establishment of a legal empire for those who seek to specialise in this area. Great progress has been made on some issues and solicitors' experience of the issues is increasing. As I say, sheriffs can bring in a safeguarder—who need not be a lawyer—to preserve a child's interest. I am happy to undertake to consider the issues to see whether the system can be improved. It is a matter of balance. Simply providing better legal access for children might create a more litigious society, which would not necessarily deliver the justice that we seek. The issue is about how we deliver that justice.

Lewis Macdonald: The cabinet secretary helpfully mentioned the need to make progress on cross-border issues. Does he agree that that is a matter that the Lord Advocate might usefully discuss with her counterparts in other jurisdictions?

Kenny MacAskill: I am sure that it is. I am more than happy to consult on the matter with the Home Secretary and the Secretary of State for Justice south of the border. People go back and forward. We have heard anecdotal evidence of the problems. It is manifestly wrong for people to seek to thwart a court order either north or south of the border by jumping over it. That should not happen. The jurisdictions on both sides of the border have a duty, so the Lord Advocate and I would be more than happy to have those discussions.

I do not accept that the courts treat parents who are married differently from those who are not. When a decision is made, the interests of the child have always been and will always be paramount. In cases in which domestic abuse is a factor, the focus must be on protecting those who are most vulnerable. I fully accept that collaborative or mediation-based approaches may not be the most appropriate in those circumstances. Mary Mulligan

mentioned Scottish Women's Aid, which has made representations to members on the issue. The Family Law (Scotland) Act 2006 introduced a new definition of "abuse", which we must take on board.

Collaborative law has been mentioned. I have spoken with Cath Karlin, who is one of the major advocates of that approach in Scotland and one of the most experienced agents. The approach is new to me, as it is to other members, but we are happy to assist and work towards it. I met Cath Karlin and representatives of Family Mediation Grampian yesterday. Other concepts are used in measures in Australia and elsewhere. We must be open and fluid but recognise that some fundamentals must always remain and that the interests of the child must always be paramount. If the system can be bettered by the points that Mr Harper raised, whether by way of collaborative law or by working better with jurisdictions south of the border and elsewhere, that must be done.

I assure Mr Don and other members that the Scottish Government is committed to supporting families through difficult times. We realise that some tragic and manifest injustices have occurred that do not serve our law well. We have to be ever vigilant. As I said, we are happy to take on board the matters that were raised on all sides of the chamber and to try to ensure that we resolve matters, particularly in instances where problems have arisen.

Meeting closed at 17:55.

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